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DESCHLER'S PRECEDENTS

OF THE

United States
House of Representatives

INCLUDING REFERENCES TO PROVISIONS
OF THE CONSTITUTION AND LAWS, AND
TO DECISIONS OF THE COURTS

By
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TABLE OF ABBREVIATIONS AND TERMS

A. (or A.2d)	Atlantic Reporter
ad hoc	For a particular purpose or end
A.L.R.	American Law Reports Annotated
Am Jur	American Jurisprudence
amend.	Amendment to the Constitution
Annals of Cong.	Annals of Congress (1789–1824)
App. D.C.	Appeal Cases, District of Columbia
App. Div.	Appellate Division
art.	Article of the Constitution
C.A.	Court of Appeals
Cert.	Certiorari
cf.	Compare with
CFR	Code of Federal Regulations
Ch.	Chapter
Cir.	Circuit Court of Appeals (federal)
Cir. Ct. App.	Circuit Court of Appeals (state)
cl.	clause
Comm.	Committee
Cong.	Congress
Cong. Deb.	Congressional Debates (1824–1837)
Cong. Globe	Congressional Globe (1833–1873)
Cong. Rec.	Congressional Record
contra	Contradictory authority
Crim. App.	Court of Criminal Appeals
Ct. Cl.	Court of Claims
D.	District Court (federal)
daily ed.	Daily edition of Record
e.g.	For example
et al.	Omission of party in case name
et seq.	And the following
ex rel.	On the relation of . . .
Exec. Comm.	Executive Communication
F (or F2d)	Federal Reporter
FCA	Federal Code Annotated
Fed. Reg.	Federal Register
FRD	Federal Rules Decisions
F Supp	Federal Supplement
H. Con. Res.	House Concurrent Resolution
H. Doc.	House Document
H.J. Res.	House Joint Resolution
H. Jour.	House Journal
H.R.	House Bill
H. Rept.	House Report
H. Res.	House Resolution
Id.	Citation to same authority as in immediately preceding citation
i.e.	That is

TABLE OF ABBREVIATIONS AND TERMS

In re	In the matter of . . .
infra	Subsequent section or chapter
inter alia	Among others
L.Ed. (or L.Ed2d)	Lawyers' Edition, U.S. Supreme Court Reports
L.J.	Law Journal
L. Rev.	Law Review
Mem.	Disposition of case without opinion
N.E. (or N.E.2d)	North Eastern Reporter
N.W. (or N.W.2d)	North Western Reporter
Op. Att'y Gen.	Attorney General's Opinions
P. (or P.2d)	Pacific Reporter
Per Curiam	Disposition of case with short opinion
Priv. L.	Private Law
Pub. L.	Uncodified Statute or Session Law
S.	Senate Bill
S. Con. Res.	Senate Concurrent Resolution
S. Ct.	Supreme Court Reporter
S. Doc.	Senate Document
S.E. (or S.E.2d)	South Eastern Reporter
Sess.	Session
Sic	Mistake in original of quoted material
S.J. Res.	Senate Joint Resolution
S. Jour.	Senate Journal
S. Rept.	Senate Report
S. Res.	Senate Resolution
So. (or So.2d)	Southern Reporter
Stat.	Statutes at large
Sup. Ct.	Supreme Court
supra	Prior section or chapter
S.W. (or S.W.2d)	South Western Reporter
U.S.	United States Supreme Court Reports
USC (or USCA)	United States Code (or United States Code Annotated)
U.S. Code Cong. & Ad. News	United States Code Congressional and Administrative News
U.S. Const.	United States Constitution
U.S.L.W.	United States Law Week

CHAPTER 21

Order of Business; Special Orders

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  - regular suspension days, §§ 10.1, 10.2

Suspension of the rules—Continued
- when in order—continued
  - unfinished business, §§ 10.11–10.14
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  - postponed to day certain, §§ 28.4–28.6
  - reported by committee, § 28.7
  - status as unfinished business, §§ 3.36–3.38

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- privileged resolution, §§ 18.41, 18.42, 29.35
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Order of Business; Special Orders

A. GENERAL PRINCIPLES

§ 1. Order Fixed by Rule and Precedent; Scheduling Business

The order of business in the House is governed, first, by the provisions of Rule XXIV, which prescribes the daily order of business, including the approval of the Journal, business on the Speaker's table, unfinished business, the morning hour call of committees (no longer in use), private business, and District of Columbia business.[1] The motion to suspend the rules on certain days is made in order by Rule XXVII,[2] and the Consent and Discharge Calendars are provided for by Rule XIII.[3]

The order of business may be interrupted for business privileged under the rules and practices of the House.[4] In addition, the regular order of business, including the relative precedence of privileged questions, may be varied by three methods: unanimous-consent requests, motions to suspend the rules, and resolutions reported from the Committee on Rules that pertain to the order of business.

The Chair may refuse to recognize for unanimous-consent requests and motions to suspend the rules, and holds the power of recognition at all times. Thus the order of business may be subject to the Chair's power of recognition. The

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1. *House Rules and Manual* §§ 878–899 (1979).
2. *House Rules and Manual* §§ 902–907 (1979).
3. *House Rules and Manual* §§ 746, 747 (1979).

   For corresponding treatment of earlier precedents, see 4 Hinds' Precedents §§ 3056 et seq. (the order of business), §§ 3152 et seq. (special orders), §§ 3266 et seq. (private and District of Columbia business); 5 Hinds' Precedents §§ 6790 et seq. (suspension of the rules); 6 Cannon's Precedents §§ 708 et seq. (order of business); 7 Cannon's Precedents §§ 758 et seq. (special orders), §§ 846 et seq. (private and District of Columbia business), §§ 881 et seq. (Calendar Wednesday), §§ 972 et seq. (Consent Calendar), §§ 1007 et seq. (calendar of motions to discharge a committee); 8 Cannon's Precedents §§ 3397 et seq. (suspension of the rules).
4. See §§ 28–31, infra.

Speaker of the House, and the Members who with him constitute the leadership of the House, have the duty of scheduling the business of the House, in concert with the leadership of each standing committee thereof.(5)

Finally, the order of business in the House is always subject to the will of the majority of the House, who may refuse to consider most matters brought before it, or may change the order of business or create a new order of business.(6)

Cross References

Assembly of Congress (for discussion of the order of business at the convening of the House), Ch. 1, supra.

Officers and staff (for discussion of the Speaker and his authority), Ch. 6, supra.

Privilege (for discussion of questions of privilege and their precedence over the regular order of business), Ch. 11, supra.

Committees (for discussion of the order of business in committees), Ch. 17, supra.

Discharging Measures From Committees, Ch. 18, supra.

Calendars, Ch. 22, infra.

Motions and Requests, Ch. 23, infra.

Consideration and Debate, Ch. 29, infra.

Role of Speaker and Leadership Scheduling Legislation

§ 1.1 The legislative schedule or program for the House is announced to the Members by the Majority Leader or Whip, or in their absence may be announced by the Speaker himself.

On May 21, 1964,(7) after the disposition of legislative business on the last legislative day of the week, Speaker John W. McCormack, of Massachusetts, took the floor, in the absence of both the Majority Leader and Majority Whip, to announce the program for the following week:

Mr. [James] Harvey of Michigan: Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

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5. See §§ 1.1–1.6 and 1.14–1.19, 1.22, 1.23, infra. For recognition for the motion to suspend the rules, see § 11, infra. For the Chair's power of recognition in general, see Ch. 29, infra. And for discussion of the functions and duties of the Speaker, see Ch. 6, supra.

6. See §§ 1.19–1.21, infra. The question of consideration, and situations where the question of consideration is not in order, are discussed in § 30, infra. For changing the order of business, see those sections of this chapter concerned with varying the order of business by unanimous consent (§ 8, infra), with motions to suspend the rules, and with special orders from the Committee on Rules.

7. 110 Cong. Rec. 11690, 88th Cong. 2d Sess.

THE SPEAKER: Is there objection to the request of the gentleman from Michigan?

There was no objection.

MR. HARVEY of Michigan: Mr. Speaker, I have asked for this time in order to inquire of the distinguished acting majority leader if he will inform us of the schedule for the balance of this week and for next week.

MR. MCCORMACK: The program for next week is as follows:

Monday is District Day, but there are no bills. We will consider H.R. 10041—hospital and medical facilities amendments of 1964. This has an open rule and provides 3 hours of general debate. . . .

On Wednesday H.R. 5130, increase in federal deposit and savings insurance. This has an open rule and provides 2 hours of general debate.

On the same day there are eight unanimous-consent bills from the Committee on Ways and Means, as follows:

H.R. 4198, free importation of instant coffee. . . .

On Thursday and the balance of the week the program is as follows:

On Thursday, at 12:30 p.m., the House and Senate will receive in joint meeting the President of Ireland, His Excellency, Eamon de Valera.

The usual reservation is made that conference reports may be brought up at any time and any further program will be announced later.

Parliamentarian's Note: The announcement of the legislative schedule for the following week is normally made by the Majority Leader or Majority Whip following the legislative program for the week. If the announcement is made on Thursday or Friday, with intent to adjourn until Monday, the unanimous-consent request (or motion, if the request is objected to) is made to adjourn over until Monday next. Also at that time, the unanimous-consent request is made to dispense with Calendar Wednesday business on the following Wednesday.

§ 1.2 The Speaker made a statement from the Chair regarding the scheduling of legislation.

On Aug. 16, 1962,(8) Speaker John W. McCormack, of Massachusetts, made a statement from the chair pending a motion that the House resolve itself into the Committee of the Whole for the consideration of the public works appropriation bill:

THE SPEAKER: The Chair would like the attention of the gentleman from Michigan [Mr. Ford]. The Chair desires to state that a number of Members have spoken to me as Speaker about the problems that confront them, which problems I thoroughly appreciate. In my years of experience as majority leader I always bore these problems in mind. But this situation did not de-

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8. 108 CONG. REC. 16730, 16731, 87th Cong. 2d Sess.

velop until within 24 hours where arrangements could be made for next week. There are problems of the leadership, and there are problems of all the Members.

The Chair felt if this bill could be brought up today, and these other three bills, we could adjourn over today until Monday of next week, and from Monday of next week to Thursday of next week, and from Thursday of next week to the following Monday. The Chair takes complete responsibility, the responsibility, as the Chair felt, being in the interest of the Members of the House that consideration could be given at this time because later on the Chair could see where there would be extreme difficulty and next week afforded an excellent opportunity. These decisions are made rather quickly because we just do not know what problems might arise. As a matter of fact, the Chair did not definitely make the decision until this morning, although the Chair had pretty well formulated it in the mind of the Chair yesterday afternoon and last evening.

§ 1.3 The Speaker advised Members that he was amenable to recognizing for unanimous-consent requests to call up bills requiring disposition before adjournment, providing that such measures were carefully screened by the leadership on both sides of the aisle.

On Aug. 17, 1964,[9] the House agreed to a unanimous-consent request giving the Speaker the authority to recognize for motions to suspend the rules and pass certain bills on a date to be agreed upon by himself, and the Majority and Minority Leaders. Speaker John W. McCormack, of Massachusetts, then made the following statement:

> The Chair will state that if arrangements can be worked out on this or any other bill, through a unanimous-consent request, where the matter has been carefully screened, the Chair will be glad to recognize for that purpose. That does not mean today. It means sometime this week, if it is carefully screened through the leadership. Members are protected in the knowledge that the screening has taken place.

§ 1.4 Members desiring to ask unanimous consent for the consideration of bills should first consult the Speaker and Majority and Minority Leaders, and in the absence of such consultation the Speaker may decline to recognize for such requests.

On July 11, 1946,[10] Mrs. Clare Boothe Luce, of Connecticut, sought recognition for a unanimous-consent request for the immediate consideration of a bill. Speaker Sam Rayburn, of Texas, declined recognition for that purpose:

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[9] 110 Cong. Rec. 19944, 88th Cong. 2d Sess.

[10] 92 Cong. Rec. 8726, 79th Cong. 2d Sess.

THE SPEAKER: Did the gentlewoman consult the Speaker about this and notify him that she was going to make this request?

MRS. LUCE: I did not, Mr. Speaker.

THE SPEAKER: The Chair refuses to recognize the gentlewoman for that purpose.

Later in the proceedings, Mr. John Phillips, of California, commented in debate on the failure of the same bill to be brought up for consideration. The Speaker stated as follows in response:

The time of the gentleman from California has expired.

The Chair desires to make a statement. For a long time, ever since 1937 at least, the present occupant of the chair knows that when Members intend to ask unanimous consent to bring up a bill they have always properly consulted with both the majority and minority leaders of the House and with the Speaker. That has been the unfailing custom. The Chair is exercising that right and intends to continue to exercise it as long as he occupies the present position because the Chair wants the House to proceed in an orderly fashion.

MRS. LUCE: Mr. Speaker, may I now ask unanimous consent to bring up the bill tomorrow?

THE SPEAKER: The Chair will meet that question when the time comes.

The Chair would certainly like the courtesy of being consulted in advance.(11)

§ 1.5 Upon concluding a recess, called by the Speaker pending receipt of an engrossed bill while a House resolution was pending before the House, the Speaker announced the unfinished business to be the reading of the engrossed copy of the bill, the Food Stamp Act of 1964.

On Apr. 8, 1964,(12) Speaker John W. McCormack, of Massachusetts, put the question on the engrossment and third reading of H.R. 10222, the Food Stamp Act of 1964, and Mr. Charles S. Gubser, of California, demanded the reading of the engrossed copy, which was not yet prepared. The House then proceeded to the consideration of House Resolution 665, dealing with certain Senate amendments to a House bill. Pending such consideration, the Speaker declared a recess subject to the call of the Chair (pursuant to such authority granted the Speaker for any time during that day), pending the receipt of the engrossed copy of H.R. 10222.

The recess having expired, the Speaker called the House to order and stated that the unfinished business was the reading of the engrossed copy of H.R. 10222, which he directed the Clerk to read.

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11. *Id.* at p. 8728.

12. 110 CONG. REC. 7302–04, 88th Cong. 2d Sess.

When Mr. Oliver P. Bolton, of Ohio, propounded a parliamentary inquiry regarding the status of House Resolution 665 as the unfinished business properly before the House, the Speaker recognized Mr. Richard Bolling, of Missouri, to withdraw House Resolution 665, thereby terminating the reason for the inquiry.

Parliamentarian's Note: This precedent predated the 1965 revision to the rules eliminating the right of any Member to demand the reading of the engrossed bill (see §§ 3.31–3.33, infra).

§ 1.6 The death of a sitting Member of the House was announced to the House, which then proceeded with scheduled business before adjourning out of respect.

On May 4, 1970,(13) Mr. John S. Monagan, of Connecticut, announced to the House, following the offering of prayer and the approval of the Journal, the death of a sitting Member of the House, William L. St. Onge, of Connecticut. Before adjourning out of respect, the House conducted its scheduled business, the consideration of a conference report and the consideration of the Consent Calendar.

Parliamentarian's Note: On many occasions, the House adjourns out of respect to a deceased Member without conducting scheduled legislative business. On this occasion, there existed a full legislative schedule for the week and the leadership, after consultation with the deceased's family, determined to proceed with business.

Order May Be Subject to Chair's Recognition

§ 1.7 In response to a parliamentary inquiry, the Speaker stated that where matters of equal privilege are pending, the order of their consideration is subject to the Speaker's recognition.

On Sept. 22, 1966,(14) Speaker John W. McCormack, of Massachusetts, made the following statement on recognition, in response to a parliamentary inquiry related to the order of business:

> . . . Of course, the question of recognition is with the Chair, where there are two similar preferential matters, but the gentleman's understanding is correct that after 7 legislative days a member of the Rules Committee could call it up.
>
> If it were a question of recognition, if the same preferential status existed

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(13) 116 Cong. Rec. 13987–14043, 91st Cong. 2d Sess.

(14) 112 Cong. Rec. 23691, 89th Cong. 2d Sess.

at the same time, recognition rests with the Chair.

§ 1.8 If a resolution providing a special order of business is not called up for consideration by the Member reporting the resolution from the Committee on Rules within seven days, any member of the committee may call it up for consideration as a privileged matter, for which purpose the Speaker would be obliged to recognize such Member, unless a matter of equal or higher privilege was pending. In the latter case, the order of consideration would be determined by the Speaker's recognition.

On Sept. 22, 1966,(15) Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry on the order of business:

> MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, a parliamentary inquiry.
>
> Under the rules of the House, as I understand them, this rule, House Resolution 1007, to bring up the so-called House Un-American Activities Committee bill, is a privileged matter, and if it is not programed, then the gentleman handling the rule or any member of the Rules Committee, may call it up as a privileged matter. Is my understanding correct about that?
>
> THE SPEAKER: The gentleman's understanding is correct. Of course, the question of recognition is with the Chair, where there are two similar preferential matters, but the gentleman's understanding is correct that after 7 legislative days a member of the Rules Committee could call it up.
>
> If it were a question of recognition, if the same preferential status existed at the same time, recognition rests with the Chair.
>
> MR. COLMER: I thank the Speaker for his ruling.
>
> Mr. Speaker, in view of that, if the gentleman will continue to yield to me, I should like to serve notice now on the majority leadership that if this resolution is not programed at a reasonably early date, I shall exercise that privilege as the one who is designated to handle this rule.
>
> MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, I should like to announce further that the program for next week will be announced later in the day.

§ 1.9 While the call of the Consent Calendar is, under Rule XIII clause 4, mandatory on the first and third Mondays of the month immediately after the approval of the Journal, the Speaker may recognize a Member to call up a conference report under Rule XXVIII clause 1, before directing the Clerk to call the Consent Calendar.

On May 4, 1970,(16) which was Consent Calendar day under Rule

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15. 112 CONG. REC. 23691, 89th Cong. 2d Sess.

16. 116 CONG. REC. 14021-33, 91st Cong. 2d Sess.

XIII clause 4, requiring that the Consent Calendar be called immediately after the approval of the Journal, Speaker John W. McCormack, of Massachusetts, recognized Mr. Carl D. Perkins, of Kentucky, to call up a conference report on H.R. 515 (to amend the National School Lunch Act and Child Nutrition Act), as a privileged matter under Rule XXVIII clause 1, before directing the call of the Consent Calendar.

§ 1.10 On a District Day, the Speaker recognized a member of the Committee on Rules to call up a privileged resolution relating to the order of business, and later recognized the chairman of another committee to call up the business made in order thereby, prior to recognizing the Chairman of the Committee on the District of Columbia to call up District business under Rule XXIV clause 8.

On Sept. 24, 1962,(17) which was District of Columbia Day under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, first recognized Mr. William M. Colmer, of Mississippi, to call up by direction of the Committee on Rules, House Resolution 804, making in order and providing for the consideration of Senate Joint Resolution 224, authorizing the President to call up armed forces reservists. The House having agreed to the resolution, the Speaker recognized Carl Vinson, of Georgia, Chairman of the Committee on Armed Services and manager of the joint resolution, to move that the House resolve itself into the Committee of the Whole for the consideration of the joint resolution, which was after debate agreed to by the House.

The Speaker then stated that it was District of Columbia Day and recognized Chairman John L. McMillan, of South Carolina, of the Committee on the District of Columbia for District business.(18)

§ 1.11 When a Member seeks recognition to call up District of Columbia business on the fourth Monday (privileged under Rule XXIV clause 8) and another Member seeks recognition to move to suspend the rules and agree to a Senate joint resolution amending the Constitution (privileged pursuant to a unanimous-consent agreement making it in order on the fourth Monday for the Speaker to recognize Members

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17. 108 Cong. Rec. 20489–94, 87th Cong. 2d Sess.

18. *Id.* at p. 20521.

to move suspension and passage of bills), it is within the discretion of the Speaker as to which of the two Members he shall recognize.

On Aug. 27, 1962,(19) which was the fourth Monday of the month and therefore a day eligible for District of Columbia business, under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, recognized Mr. Emanuel Celler, of New York, to move to suspend the rules and pass a joint resolution (to amend the Constitution to prohibit the use of a poll tax as a qualification for voting) pursuant to a previous unanimous-consent request making in order on that day motions to suspend the rules. The Speaker overruled a point of order against prior recognition for the motion to suspend the rules:

Mr. Celler: Mr. Speaker, I move to suspend the rules and pass Senate Joint Resolution 29, proposing an amendment to the Constitution of the United States relating to qualifications of electors.

Mr. [Thomas G.] Abernethy [of Mississippi]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state his point of order.

Mr. Abernethy: Mr. Speaker, I make the point of order that this is District Day, that there are District bills on the calendar, and as a member of the Committee on the District of Columbia I respectfully demand recognition so that these bills may be considered.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, may I be heard on the point of order?

The Speaker: The Chair is prepared to rule, but the gentleman may be heard.

Mr. Albert: Mr. Speaker, by unanimous consent, suspensions were transferred to this day, and under the rules the Speaker has power of recognition at his own discretion.

Mr. Abernethy: Mr. Speaker, I respectfully call the attention of the chairman to clause 8, rule XXIV, page 432 of the House Manual. . . .

Mr. Speaker, I submit that rule is clear that when the time is claimed and the opportunity is claimed the Chair shall permit those bills to be considered.

Therefore, Mr. Speaker, I respectfully submit my point of order is well taken, and that I should be permitted to call up bills which are now pending on the calendar from the Committee on the District of Columbia.

Mr. [Howard W.] Smith of Virginia: Mr. Speaker, I should like to be heard on the point of order.

The Speaker: The Chair will hear the gentleman.

Mr. Smith of Virginia: Mr. Speaker, the rules of the House on some things are very clear, and the rules of the House either mean something or they do not mean anything.

Mr. Speaker, the gentleman from Mississippi [Mr. Abernethy], has just

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[19] 108 Cong. Rec. 17654–60, 87th Cong. 2d Sess.

called to the Chair's attention clause 8 of rule XXIV. Nothing could be clearer; nothing could be more mandatory. I want to repeat it because I hope the Chair will not fall into an error on this proposition:

> The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only—

And that is all; that is all that you can consider—disposition of motions to discharge committees—

> and after the disposal of such business on the Speaker's table as requires reference only—

That is all that the Chair is permitted to consider.

Mr. Speaker, after that is done the day—

> shall when claimed by the Committee on the District of Columbia, be set apart for the consideration of such business as may be presented by said committee.

Mr. Speaker, I know that the majority leader bases his defense upon the theory that the House having given unanimous consent to hear suspensions on this Monday instead of last Monday when they should have been heard—and I doubt if very many Members were here when that consent order was made and I am quite sure that a great number of them had no notice that it was going to be made, and certainly I did not—now the majority leader undertakes to say that having gotten unanimous consent to consider this motion on this day to suspend the rules, therefore, it gives the Speaker carte blanche authority to do away with the rule which gives first consideration to District of Columbia matters.

Mr. Speaker, there was no waiver of the rule on the District of Columbia. That consent did not dispose or dispense with the business on the District of Columbia day. The rule is completely mandatory. The rule says that on the second and fourth Mondays, if the District of Columbia claims the time, that the Speaker shall recognize them for such dispositions as they desire to call.

THE SPEAKER: The Chair is prepared to rule.

Several days ago on August 14 unanimous consent was obtained to transfer the consideration of business under suspension of the rules on Monday last until today. That does not prohibit the consideration of a privileged motion and a motion to suspend the rules today is a privileged motion. The matter is within the discretion of the Chair as to the matter of recognition.

§ 1.12 On one occasion the Speaker, having recognized one Member to propound a parliamentary inquiry regarding the status of a resolution as "unfinished business," then recognized the Member who had offered the resolution to withdraw it, thus eliminating the reason for the inquiry.

On Apr. 8, 1964, a demand was made for the reading of the engrossed copy of a bill where the engrossment was not yet prepared. The bill was laid aside and the House proceeded to consider a resolution (concurring in a Senate amendment to a House bill). Prior to the disposition of that resolution, Speaker John W. McCormack, of Massachusetts, declared a recess pursuant to authority previously granted.

At the conclusion of the recess, the Speaker stated the unfinished business to be the reading of the engrossed copy of the bill on which the demand had been made. A parliamentary inquiry with respect to the order of business was then raised by Mr. Oliver P. Bolton, of Ohio. The ensuing proceedings, during which the Speaker asserted his right of recognition to permit a Member to withdraw the resolution, are discussed fully in the next precedent.(20)

§ 1.13 The power of recognition rests with the Chair and is subject to his discretion.

On one occasion, the Speaker, having recognized one Member to propound a parliamentary inquiry regarding the status of a resolution as "unfinished business," then recognized another Member to withdraw the resolution, thus eliminating the reason for the inquiry.

On Apr. 8, 1964, a demand was made for the reading of the engrossed copy of a bill where the engrossment was not yet prepared. The bill was laid aside and the House proceeded to consider a resolution (concurring in Senate amendments to a House bill). Prior to the disposition of that resolution, Speaker John W. McCormack, of Massachusetts, declared a recess pursuant to authority previously granted.

At the conclusion of the recess, the Speaker stated the unfinished business to be the reading of the engrossed copy of the bill on which the demand had been made. The following inquiry and its disposition then ensued:

The Speaker: The unfinished business is the reading of the engrossed copy of H.R. 10222.

The Clerk will read the engrossed copy.

Mr. Oliver P. Bolton [of Ohio]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Oliver P. Bolton: Mr. Speaker, when the recess was called, it is my understanding that we were engaged in the consideration of what is referred to as a cotton and wheat bill. Is it not the rule of the House that we must finish the consideration of that measure before we take up any other measure which has been passed over for parliamentary and mechanical reasons?

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20. § 1.13, infra.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker——

THE SPEAKER: The gentleman from Missouri [Mr. Bolling].

MR. BOLLING: Mr. Speaker, under the rules I withdraw House Resolution 665.

MR. OLIVER P. BOLTON: Mr. Speaker, a parliamentary inquiry.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, that takes unanimous consent, and I object.

THE SPEAKER: The Chair will state that it does not take unanimous consent to withdraw the resolution in the House.

MR. OLIVER P. BOLTON: Mr. Speaker, it is my understanding that the Speaker was addressing the Member now addressing the Chair and had not given an answer to my question. Therefore, the recognition of the Member from the other side the gentleman from Missouri [Mr. Bolling] was out of order. Am I incorrect?

THE SPEAKER: The recognition of the gentleman from Missouri [Mr. Bolling] terminated the parliamentary inquiry.

MR. OLIVER P. BOLTON: In other words, the Speaker did not answer the parliamentary inquiry; is that correct?

THE SPEAKER: Since the resolution was withdrawn, the parliamentary inquiry was ended.

MR. OLIVER P. BOLTON: If the Speaker will respectfully permit, the gentleman from Ohio would suggest that the question had been asked before the resolution had been withdrawn.

THE SPEAKER: The Chair will state that the Chair has the power of recognition. Now that the resolution has been withdrawn, the unfinished business is the reading of the engrossed copy of H.R. 10222.

MR. OLIVER P. BOLTON: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. OLIVER P. BOLTON: The Speaker had recognized the gentleman from Ohio for a parliamentary inquiry. The parliamentary inquiry had been made. The parliamentary inquiry had not been answered and yet the Chair recognized the gentleman from Missouri.

THE SPEAKER: Which the Chair has the power to do.

The Clerk will read the engrossed copy of H.R. 10222. . . .

MR. OLIVER P. BOLTON: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. OLIVER P. BOLTON: Mr. Speaker, may I inquire whether the parliamentary inquiry which I addressed to the Chair is now not to be answered, because of the action of the gentleman from Missouri?

THE SPEAKER: The gentleman will repeat his parliamentary inquiry.

MR. OLIVER P. BOLTON: Mr. Speaker, my parliamentary inquiry was to the effect that inasmuch as the House was engaged at the business before it at the time the Speaker called the recess, whether the rules of the House did not call for the conclusion of that business before other business which had been postponed by the House under the rules of the House and in accordance with the procedures of the House did not have to follow consideration of any business that was before the House at the time of the calling of the recess?

THE SPEAKER: The Chair will state that the gentleman from Missouri withdrew his resolution. If he had not withdrawn the resolution the situation might have been different.

The Chair has made a ruling that the unfinished business is the reading of the engrossed copy of H.R. 10222. That is the unfinished business.[1]

Chair May Decline Recognition for Unanimous-consent Requests

§ 1.14 The Speaker discussed the practice of recognizing Members for unanimous-consent requests for the consideration of bills.

On July 1, 1932,[2] Speaker John N. Garner, of Texas, made a statement relative to recognition for certain unanimous-consent requests:

MR. [WILLIAM A.] PITTENGER [of Minnesota]: Mr. Speaker, I had planned to ask unanimous consent for the consideration of a measure, but the watchdog of the Treasury from Milwaukee has asked me to wait until after 6 o'clock, so I can not make the request.

THE SPEAKER: In order that gentlemen may understand the situation, let the Chair state how it is the Chair recognizes certain gentlemen. The Chair must decline to recognize a great many gentlemen who have meritorious matters, because the Chair must have some yardstick that can be applied to every Member of the House. The gentleman from Minnesota [Mr. Pittenger] had a bill that had passed the House unanimously, had gone to the Senate, and had an amendment placed on it there, adding one name. The Chair thinks in a case of that kind, where unanimous consent has to be given, it is well enough for the Chair to recognize the Member for that purpose; but the Chair will not recognize gentlemen to take up as an original proposition private claims or other matters unless they are of an emergency nature and apply to the general public rather than to one individual.

§ 1.15 The Speaker declined to recognize a Member to request unanimous consent to make an omnibus private bill eligible for consideration during a call of the Private Calendar on a specific day, when the House had previously agreed by unanimous consent that it be passed over.

On July 15, 1968,[3] Speaker John W. McCormack, of Massachusetts, declined to recognize Mr. William L. Hungate, of Missouri, to make the unanimous-consent request that the first omnibus private bill of 1968

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[1] 110 CONG. REC. 7302–04, 88th Cong. 2d Sess.

[2] 75 CONG. REC. 14511, 72d Cong. 1st Sess.

[3] 114 CONG. REC. 21326, 90th Cong. 2d Sess.

(H.R. 16187) be placed on the Private Calendar for July 16. The House had previously agreed, on July 12, 1968, to the unanimous-consent request of Majority Leader Carl Albert, of Oklahoma, that the bill be passed over and not considered during the call of the Private Calendar on July 16.(4)

§ 1.16 The Speaker declines to recognize Members for unanimous-consent requests that bills stricken from the Private Calendar be restored thereto until they have consulted with the official objectors.

On Apr. 12, 1948,(5) Mr. Thomas J. Lane, of Massachusetts, asked unanimous consent that a bill previously stricken from the Private Calendar be restored thereto. Speaker Joseph W. Martin, Jr., of Massachusetts, inquired whether he had consulted with the official objectors. Mr. Lane responded that he had not, and the Speaker responded that "The Chair cannot entertain the gentleman's request until he has done so."

§ 1.17 The Chair refuses to recognize Members after the absence of a quorum has been announced by the Chair, and no business is in order until a quorum has been established.

On June 8, 1960,(6) Mr. Clare E. Hoffman, of Michigan, made the point of order that a quorum was not present. Speaker Sam Rayburn, of Texas, counted and announced the absence of a quorum, and a call of the House was ordered. The Speaker declined to recognize Mr. Hoffman, who addressed the Chair seeking recognition after the Chair's announcement and after the call of the House was ordered.

§ 1.18 The Chair declined to recognize Members for extensions of remarks and one-minute speeches before proceeding with unfinished business.

On Oct. 19, 1966,(7) Speaker John W. McCormack, of Massachusetts, announced, following the approval of the Journal and the receipt of messages from the President, that the Chair would receive unanimous-consent requests after the "disposition of pending business." The pending business was unfinished business from the prior day, the vote on agreeing to a resolution.

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(4) *Id.* at p. 20998.

(5) 94 Cong. Rec. 4573, 80th Cong. 2d Sess.

(6) 106 Cong. Rec. 12142, 86th Cong. 2d Sess.

(7) 112 Cong. Rec. 27640, 27641, 89th Cong. 2d Sess.

House May Determine Order of Consideration

§ 1.19 Where two propositions of equal privilege are pending, it is for the Chair to determine whom he will recognize to call up one of the propositions, but the House may by unanimous consent determine such precedence.

On Sept. 11, 1945,(8) Speaker Sam Rayburn, of Texas, entertained a unanimous-consent request relating to the order of business and responded to a parliamentary inquiry as to its effect:

The Speaker: The Chair recognizes the gentleman from North Carolina.

Mr. [Alfred L.] Bulwinkle [of North Carolina]: Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow, immediately after the meeting of the House for business, to consider the bill (H.R. 3974) to repeal war time; that general debate be limited to 1 hour, to be equally divided and controlled by the gentleman from Oklahoma [Mr. Boren], chairman of the subcommittee, and the gentleman from Massachusetts [Mr. Holmes].

Mr. [Joseph W.] Martin [Jr.] of Massachusetts: Mr. Speaker, reserving the right to object, and I shall not because I want to congratulate the committee on bringing in the legislation at this early date, as I understand it, that will be the first order of business tomorrow?

Mr. Bulwinkle: Yes; that is my understanding.

Mr. [Robert F.] Rich [of Pennsylvania]: Mr. Speaker, reserving the right to object, I was under the impression that H.R. 3660 was to be the next order of business.

The Speaker: That is a question for the Chair, as to whether the Chair will recognize the gentleman from Illinois to call up the rule or recognize the gentleman from Oklahoma to call up the bill repealing war time. The request being made at this time is for the war time repeal bill to take precedence.

§ 1.20 The question as to when the House will consider a bill unfinished on a previous day is always within the control of a majority of the House.

On Apr. 26, 1948,(9) Speaker Joseph W. Martin, Jr., of Massachusetts, answered a parliamentary inquiry as to when a bill, brought up in the House by a motion to discharge, could be considered if not finished on the day on which brought up. The Speaker heard Mr. Earl C. Michener, of Michigan, on

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8. 91 Cong. Rec. 8510, 8511, 79th Cong. 1st Sess.

9. 94 Cong. Rec. 4877, 4878, 80th Cong. 2d Sess.

the inquiry and then stated as follows:

The Chair is interested in the valued comments of the distinguished gentleman from Michigan. Of course, the Chair is unaware of the intent or purpose back of the rule when it was first formulated. All he has to guide him is the rule itself as it appears before him in print. The Chair agrees with the gentleman from Michigan that the House can immediately consider the legislation after the motion to discharge the committee is agreed to, but the rule states "and if unfinished before adjournment of the day on which it is called up, it shall remain the unfinished business until it is fully disposed of."

That provision does not state definitely that the bill must come up on the following day, but that it shall remain the unfinished business. The gentleman's point that the bill could be postponed indefinitely of course is correct, in a sense, but after all the rules are based on common sense, and no one would anticipate that the side that procured enough signatures to a discharge petition to bring a bill before the House would filibuster their own bill.

While the rule perhaps is not quite as definite as it might be, it is the opinion of the Chair that the consideration of the bill could go over until Wednesday if the proponents of the bill do not call it up on tomorrow, and that it would be in order on Wednesday as the unfinished business.

The Chair believes that unless the gentleman from South Carolina [Mr. Rivers] or someone on his side of the issue, calls it up on tomorrow, it can be called up on Wednesday and will be the unfinished business on that day. The Chair also wishes to state that he will not recognize anyone on the affirmative side of this matter unless the gentleman from South Carolina is absent. It is not necessary to call it up on tomorrow and it can be called up on Wednesday, at which time it will be the unfinished business.

The Chair will also remind Members that it is always within the control of the majority of the House to determine what should be done.

§ 1.21 The question as to when the Committee of the Whole will resume the consideration of a bill unfinished when the Committee rises is for the Speaker and the House to determine, and not for the Chairman of the Committee of the Whole.

On Apr. 26, 1948,[10] Chairman Leslie C. Arends, of Illinois, answered a parliamentary inquiry as follows in the Committee of the Whole:

Mr. August H. Andresen [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. August H. Andresen: Mr. Chairman, I understand that the

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[10] 94 Cong. Rec. 4873, 4874, 80th Cong. 2d Sess.

Committee will rise at 4 o'clock. It is also my understanding of the rules that this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.

I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.

THE CHAIRMAN: The Chair may say that is a matter for the Speaker of the House and the House itself to determine. It is not something within the jurisdiction of the Chair to decide.

Role of Committee in Scheduling Legislation

§ 1.22 The Speaker declined to recognize the chairman of one committee for a unanimous-consent request to rerefer a bill until the chairman of the other committee involved was consulted.

On Mar. 25, 1948,[11] Edith Nourse Rogers, of Massachusetts, Chairwoman of the Committee on Veterans' Affairs, asked unanimous consent that the committee be discharged from further consideration of the bill and that it be rereferred to the Committee on the Judiciary. Speaker Joseph W. Martin, Jr., of Massachusetts, inquired whether Mrs. Rogers had consulted with the Chairman of the Committee on the Judiciary and Mrs. Rogers responded that she had not. The Speaker declined to recognize her for the request, stating that, "it is customary to consult with the chairman of the committee to whom the bill is to be referred." He indicated that the matter could again be brought up on the following week.

§ 1.23 The Speaker declined to recognize a Member for a unanimous-consent request to take a bill from the Speaker's table and concur in the Senate amendments where such a request was made without the authorization of the chairman of the committee involved and where Members had been informed there would be no further legislative business for the day.

On July 31, 1969,[12] Mr. Hale Boggs, of Louisiana, sought recognition to ask unanimous consent to take from the Speaker's table a bill (H.R. 9951) providing for the collection of federal unemployment tax, with Senate amendments thereto, and concur in the Senate amendments. Speaker John W. Mc-

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[11] 94 CONG. REC. 3573, 80th Cong. 2d Sess.

[12] 115 CONG. REC. 21691, 91st Cong. 1st Sess.

Cormack, of Massachusetts, declined to recognize for that purpose:

The Speaker: The Chair will state that at this time the Chair does not recognize the gentleman from Louisiana for that purpose.

The chairman of the Committee on Ways and Means is at present appearing before the Committee on Rules seeking a rule and Members have been told that there would be no further business tonight.

The Chair does not want to enter into an argument with any Member, particularly the distinguished gentleman from Louisiana whom I admire very much. But the Chair has stated that the Chair does not recognize the gentleman for that purpose.

Mr. Boggs: Mr. Speaker, the gentleman from Louisiana equally admires the gentleman in the chair. I thoroughly understand the position of the distinguished Speaker.[13]

§ 1.24 Unfinished business in the Committee of the Whole does not come up automatically when that class of business is again in order, but may be called up by a Member in charge of the legislation (by a motion to resolve into the Committee of the Whole for the further consideration of the measure).

On May 9, 1932,[14] Speaker John N. Garner, of Texas, answered a parliamentary inquiry on the order of business on District of Columbia Monday:

Mrs. [Mary T.] Norton [of New Jersey]: Mr. Speaker, I ask unanimous consent to call up concurrent resolution (S. Con. Res. 27), and yield five minutes to the gentleman from Ohio, Mr. Harlan, to offer an amendment thereto.

Mr. [William H.] Stafford [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Stafford: Mr. Speaker, on the last day given over to District business, House Joint Resolution 154, providing for a merger of the street-railway systems in the District of Columbia, was the unfinished business. As this joint resolution was the unfinished business when the District Committee last had the call, is it not the unfinished business when the House resumes consideration of District business?

The Speaker: The Chair thinks not, because a motion to consider it is necessary. Wherever a motion is required, the unfinished business has no precedence over any other business.

Parliamentarian's Note: House

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[13] See also 106 Cong. Rec. 18920, 86th Cong. 2d Sess., Sept. 1, 1960, for a statement by the Speaker that only the chairman of the committee with jurisdiction would be recognized to ask unanimous consent to take a bill from the table, disagree to the Senate amendment, and ask for a conference.

[14] 75 Cong. Rec. 9836, 72d Cong. 1st Sess.

Joint Resolution 154 had last been under consideration on District Monday, Apr. 25, 1932, in Committee of the Whole; the Committee of the Whole had come to no conclusion thereon.

§ 1.25 The adoption of a resolution making in order the consideration of a bill does not necessarily make the bill the unfinished business the next day, and the bill can only be called up by a Member designated by the committee to do so.

On July 19, 1939,(15) the House adopted a resolution from the Committee on Rules making in order the consideration of a bill. Speaker William B. Bankhead, of Alabama, answered a parliamentary inquiry on the status of the bill thereby made in order as unfinished business:

Mr. [Claude V.] Parsons [of Illinois]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Parsons: Mr. Speaker, the House having adopted the rule, is not this bill the unfinished business of the House on tomorrow?

The Speaker: Not necessarily. The rule adopted by the House makes the bill in order for consideration, but it is not necessarily the unfinished business. It can only come up, after the adoption of the rule, by being called up by the gentleman in charge of the bill.

§ 2. Prayer, Approval of Journal, and Business on the Speaker's Table

Rule XXIV clause 1(16) provides for the order of business when the House convenes:

1. The daily order of business shall be as follows:

First. Prayer by the Chaplain.

Second. Reading and approval of the Journal.

Third. Correction of reference of public bills.

Fourth. Disposal of business on the Speaker's table.

Fifth. Unfinished business.

Sixth. The morning hour for the consideration of bills called up by committees.

Seventh. Motions to go into Committee of the Whole House on the State of the Union.

Eighth. Orders of the day.

Similarly, Rule XXIV clause 2(17) provides for the disposition of business on the Speaker's table:

2. Business on the Speaker's table shall be disposed of as follows:

Messages from the President shall be

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15. 84 Cong. Rec. 9541, 76th Cong. 1st Sess.

16. *House Rules and Manual* § 878 (1979).

17. *House Rules and Manual* § 882 (1979).

> referred to the appropriate committees without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner and with the same right of correction as public bills presented by Members; but House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee.

No business is in order before the prayer, which is offered daily when the House meets, and a point of order of no quorum is not entertained before the prayer.(18)

The next order of business is the approval of the Journal. Prior to the 92d Congress, one Member could, under then Rule I clause 1, demand the reading of the Journal in full, and intervening points of order of no quorum could be made during such reading, delaying the business of the House for many hours on some occasions. Under the 1973 version of the rule, the Speaker announces his approval of the Journal, whereupon it is considered as read (unless the Speaker in his discretion orders its reading). Only one motion is in order that the Journal be read (a nondebatable motion).(19) Messages from the President and Senate have been received and questions of privileges of the House have been raised before the approval of the Journal,(20) but no other business, including a privileged report from the Committee on Rules, may intervene.(1)

Following the approval of the Journal, motions (or unanimous-consent requests) to correct the rereference of public bills are in order, and such motions may be made at a later point in the proceedings only by unanimous consent.(2) In the current practice of the House, one-minute speeches, although not provided for by the rule, are entertained immediately following the approval of the Journal by unanimous consent and

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18. See §§ 2.1–2.3, infra.

19. See *House Rules and Manual* § 621 (1973).

20. See §§ 2.5, 2.8, infra. 2 Hinds' Precedents § 1630; 6 Cannon's Precedents § 637.

1. See § 2.12, infra.

2. See §§ 2.14–2.16, infra.

before any legislative business (including the rereference of bills).(3)

Rule XXIV(4) next provides for the disposal of business on the Speaker's table. Business on the table consists of executive communications, messages from the President, bills, resolutions, and messages from the Senate, and House bills with Senate amendments. Messages from the President and messages from the Senate are matters of privilege and may be received, laid before the House and disposed of at any time when business permits; where they are received during a quorum call which results in an adjournment of the House, they are held at the desk until the next legislative day.(5)

Normally, executive communications are referred after the approval of the Journal; if the House adjourns before such approval, the communications are held at the desk until the next legislative. day(6)

Rule XXIV clause 2 provides for the immediate disposal, after the correction of reference of public bills, of certain House bills with Senate amendments and certain Senate bills.(7) Most Senate bills and House bills with Senate amendments do not, however, comply with the requirements of the rule, since requiring consideration in Committee of the Whole. They may be disposed of at any time before the stage of disagreement (when business permits) by unanimous consent, by a motion to ask for or agree to a conference if authorized by the committee (and if entertained by the Speaker in his discretion), by suspension of the rules, or by a resolution from the Committee on Rules.(8) And after the stage of disagreement has been reached, a bill with amendments between the Houses is privileged for consideration.

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3. For the place in the order of business of one-minute speeches, see § 6, infra.

4. See *House Rules and Manual* §§ 878, 882 (1979).

5. See §§ 2.22, 2.23, infra. Such messages have been received before the approval of the Journal; see §§ 2.5, 2.8, infra.

6. See § 2.17, infra.

7. See §§ 2.18 (Senate bills substantially the same as reported House bills on the House Calendar) and 2.21 (House bill with Senate amendments not requiring consideration in Committee of the Whole), infra.

8. See §§ 2.19 (note) and 2.20, infra. For a complete discussion, see Ch. 32, infra (discussing amendments between the Houses), and Ch. 33, infra (House-Senate Conferences).

Offering of Prayer

§ 2.1 The Chaplain offers prayer daily, whether the House has adjourned until the next day or has recessed.

On June 17, 1948, the House recessed at 8:12 p.m. until 10 a.m. on June 18. When the House was called to order at the conclusion of the recess, prayer was offered by the Reverend James Shera Montgomery.(9)

§ 2.2 The prayer offered at the beginning of the business of the House is not considered as business and the Speaker does not recognize a point of order that a quorum is not present before the prayer.

On Aug. 4, 1950,(10) Mr. Robert F. Rich, of Pennsylvania, sought to make a point of order that a quorum was not present, before the prayer had been offered. Speaker Sam Rayburn, of Texas, responded "We will have the prayer first, because that is not considered business."

Parliamentarian's Note: Rule XV clause 6, as added during the 93d Congress, prohibits the making or entertaining of a point of order that a quorum is not present before or during the offering of prayer.

§ 2.3 On one occasion, prayer was not offered by the Chaplain until a Speaker had been elected and the oath administered to him (the late Speaker having died between the first and second session).

On Jan. 10, 1962,(11) the convening day of the second session of the 87th Congress, the Clerk called the House to order, Speaker Sam Rayburn, of Texas, having died before the convening. The House proceeded to elect a new Speaker (John W. McCormack, of Massachusetts) who was sworn in by the Dean of the House, Carl Vinson, of Georgia, before prayer was offered by the Chaplain.

Approval of Journal in Order of Business

§ 2.4 Under the order of business prescribed by Rule XXIV, legislative business on the Speaker's table is not disposed of until the Journal has been approved, and executive communications on the

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(9) 94 Cong. Rec. 8824, 80th Cong. 2d Sess.

(10) 96 Cong. Rec. 11829, 81st Cong. 2d Sess.

(11) 108 Cong. Rec. 5, 6, 87th Cong. 2d Sess.

Speaker's table are not referred when the House adjourns before the reading or approval of the Journal.

On Dec. 7, 1963,(12) Mr. William K. Van Pelt, of Wisconsin, made a point of order that a quorum was not present, immediately after the offering of prayer and before the approval of the Journal. Mr. John E. Moss, Jr., of California, moved that the House adjourn, and the motion was agreed to. Executive communications on the Speaker's table were not referred, in accordance with Rule XXIV clause 2, but were held at the Speaker's table and referred on Dec. 9, the next meeting day of the House.

Parliamentarian's Note: This precedent, and the following ones relating to the reading and approval of the Journal as to the order of business, predate the 1971 change in Rule I clause 1, implementing the Legislative Reorganization Act of 1970 (84 Stat. 1140). The rule was amended to change the former requirement that the Journal be read in full, such reading to be dispensed with only by unanimous consent. The rule now provides for the Speaker to announce his approval of the Journal, whereon it shall be considered read, unless the Speaker in his discretion orders its reading. One motion is in order that the Journal be read.(13)

§ 2.5 Messages from the Senate have been received before the approval of the Journal.

On Sept. 13, 1965,(14) there was pending before the House a motion to approve the Journal. Speaker John W. McCormack, of Massachusetts, received a message from the Senate, announcing the passage by the Senate of a House bill. The Speaker overruled a point of order against the procedure:

> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a point of order.
>
> THE SPEAKER: For what purpose does the gentleman from Iowa arise?
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> MR. GROSS: The transacting of business of the House prior to adoption of the reading of the Journal.
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> THE SPEAKER: The Chair will state it is always proper, as well as courteous, to receive a message from the President

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(12) 109 CONG. REC. 23751, 23752, 88th Cong. 1st Sess.

(13) For the 1971 amendment to Rule I, see H. Res. 5, 117 CONG. REC. 140–44, 92d Cong. 1st Sess., Jan. 22, 1971 (implementing § 127 of the Legislative Reorganization Act of 1970, Pub. L. No. 91–510, 84 Stat. 1140).

(14) 111 CONG. REC. 23604, 89th Cong. 1st Sess.

of the United States, or from the other body, as quickly as possible.

On Sept. 11, 1968,(15) there was pending before the House a motion to dispense with further proceedings under a call of the House, where the call was ordered before the reading and approval of the Journal. Before the motion was dispensed with, Speaker John W. McCormack, of Massachusetts, received a message from the Senate, announcing that the Senate had agreed to a conference report.(16)

§ 2.6 The oath may be administered to a Member-elect before the approval of the Journal.

On Apr. 26, 1948,(17) Mr. Ellsworth B. Buck, of New York, made the point of order that a quorum was not present prior to the reading and approval of the Journal. At the request of Speaker Joseph W. Martin, Jr., of Massachusetts, Mr. Buck withheld his point of order in order that the certificate of election of a Member-elect could be laid before the House and that he be sworn in. Following the completion of the administration of the oath, Mr. Buck renewed his point of order and a call of the House ensued.

Parliamentarian's Note: The administration of the oath is presented as a question of the privileges of the House, which if properly raised takes precedence over the approval of the Journal; for a complete discussion of the oath, see Chapter 2, supra. Questions of constitutional privilege, of which there are few, such as propositions to impeach, also take precedence over the approval of the Journal.(18)

§ 2.7 Calendar Wednesday business may be dispensed with by unanimous consent but not by motion before the approval of the Journal.

On Sept. 19, 1962,(19) Carl Albert, of Oklahoma, the Majority Leader, asked unanimous consent, before the reading and approval of the Journal, that Calendar Wednesday business on that day be dispensed with. Mr. Carl D. Perkins, of Kentucky, objected to the request. Mr. Albert then moved that Calendar Wednesday business be dispensed with, and Speaker John W.

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15. 114 Cong. Rec. 26453, 26454, 90th Cong. 2d Sess.
16. See also 108 Cong. Rec. 19940, 87th Cong. 2d Sess., Sept. 19, 1962; and 108 Cong. Rec. 17651–54, 87th Cong. 2d Sess., Aug. 27, 1962.
17. 94 Cong. Rec. 4834, 80th Cong. 2d Sess.
18. See the discussion at § 31, infra.
19. 108 Cong. Rec. 19940, 87th Cong. 2d Sess.

McCormack, of Massachusetts, ruled that the motion was not in order before the reading and approval of the Journal.

§ 2.8 A message from the President was received before the approval of the Journal.

On Aug. 27, 1962,(20) three quorum calls and two record votes on the motion to dispense with further proceedings under the call interrupted the reading of the Journal, on a day when a Member intended to move to suspend the rules and pass a joint resolution amending the Constitution to abolish poll taxes as a qualification for federal electors. Before the reading of the Journal had been completed, Speaker John W. McCormack, of Massachusetts, received a message in writing from the President.

§ 2.9 Unanimous-consent requests for insertions in the Record are not received by the Speaker prior to the completion of the reading and approval of the Journal.

On Sept. 19, 1962,(1) before the reading and approval of the Journal, Mr. Carl Albert, of Oklahoma, asked unanimous consent to insert in the *Congressional Record* with his own remarks a letter from the Secretary of State to the Speaker. Speaker John W. McCormack, of Massachusetts, stated that the request would "have to wait until after the Journal has been read and acted upon."

§ 2.10 Prior to the conclusion of the reading and approval of the Journal, the Speaker declared a recess subject to the call of the Chair (pursuant to authority previously granted).

On Apr. 9, 1964,(2) before the reading and approval of the Journal, Speaker John W. McCormack, of Massachusetts, declared a recess, in order that Members could proceed to the Rotunda of the Capitol to witness the conclusion of lying-in-state ceremonies for the late General of the Army, Douglas MacArthur. The Speaker had previously been authorized by the House to declare a recess at any time on the day in question.

§ 2.11 Numerous parliamentary inquiries concerning the anticipated order of business were enter-

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(20) 108 Cong. Rec. 17651–54, 87th Cong. 2d Sess.

(1) 108 Cong. Rec. 19940, 87th Cong. 2d Sess.

(2) 110 Cong. Rec. 7354, 88th Cong. 2d Sess.

tained by the Chair during the reading of the Journal.

On Sept. 11, 1968,(3) two quorum calls interrupted the reading of the Journal. Speaker John W. McCormack, of Massachusetts, entertained and responded to several parliamentary inquiries on the order of business (in relation to a conference report on the Defense Department appropriation bill, H.R. 18707) before concluding the reading and approval of the Journal. The Speaker noted that recognition for parliamentary inquiries was always within the discretion of the Chair.

§ 2.12 A privileged report from the Committee on Rules may not be called up before the approval of the Journal, contrary to early practice.

On Oct. 8, 1968,(4) when various quorum calls had interrupted the reading of the Journal (the scheduled business was a bill suspending for the 1968 Presidential campaign equal-time requirements of the Communications Act of 1934), Speaker pro tempore Wilbur D. Mill, of Arkansas, responded to a parliamentary inquiry concerning the order of business before the reading and approval of the Journal:

> THE SPEAKER PRO TEMPORE: The gentleman from Texas will state his parliamentary inquiry.
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> MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Speaker, under rule 11 of the rules of the House it is held that it shall always be in order to call up for consideration a report on legislative business from the Committee on Rules.
>
> I discover that on one occasion the Chair did recognize a member of the Committee on Rules to call up a resolution providing a special order for the consideration of the bill. On that occasion one of the Members made a point of order against the consideration of that resolution to the effect that no business was in order until after the reading and the approval of the Journal of the proceedings of the previous session. After debate, the Speaker overruled the point of order on the ground that under clause 51 of rule 11 it shall always be in order to call up for consideration a report from the Committee on Rules, and that like a motion to adjourn, which is "always in order," such report may be called up before as well as after the reading of the Journal.
>
> The other Member, Mr. Tracey, appealed from the decision of the Chair. This appeal was laid upon the table by a vote of yeas 195, nays 73.
>
> Mr. Speaker, my inquiry is this: Under that rule and under that precedent would it not be in order, particularly in view of the very obvious dilatory tactics being employed on the part of cer-

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3. 114 CONG. REC. 26453–56, 90th Cong. 2d Sess.
4. 114 CONG. REC. 30095, 30096, 90th Cong. 2d Sess.

tain Members of this body on the other side of the aisle to prevent the transaction of business, for the Chair to recognize a member of the Committee on Rules as the spokesman of the Committee on Rules to call up a rule in order that the business of the House may be transacted and the will of the majority of the Members of the House may be worked?

The Speaker Pro Tempore: Did the gentleman from Texas [Mr. Wright] put his inquiry in the form of a parliamentary inquiry?

Mr. Wright: Yes, Mr. Speaker. At the end of the statement was a question mark. The question is, Would it be in order under the circumstances and in view of this precedent for the Chair forthwith to recognize the gentleman from Indiana [Mr. Madden] who acts at the direction of the Committee on Rules to call up a special order for consideration of the bill and permit the House to work its will?

The Speaker Pro Tempore: The Chair understands the gentleman's parliamentary inquiry.

Mr. [Sidney R.] Yates [of Illinois]: Mr. Speaker, with reference to that particular point, may I call the attention of the Chair to rule XI, section 22, which states that—

> It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting.

As I understand the gentleman from Texas and his inquiry of the Chair, it is whether it is not in order for a Member to call up a report from the Committee on Rules——

Mr. [Craig] Hosmer [of California]: The citation and precedent used by the gentleman from Oklahoma and also the rule cited by the gentleman from Illinois appear to have reference to proceedings either before or after an act such as the reading of the Journal and not within the pending business which is the reading of the Journal.

I wish to point out to the Chair the distinction between the situation posed by the parliamentary inquiry of the gentleman from Texas and his precedents, and the situation actually before the House at this moment when there is pending an unread Journal.

The Speaker Pro Tempore: The Chair is ready to respond to the parliamentary inquiry of the gentleman from Texas [Mr. Wright]. The Chair will state that the Chair is aware of the precedent to which the gentleman points and poses in propounding his parliamentary inquiry, and appreciates the gentleman from Illinois [Mr. Yates] calling attention of the Chair to the rule, and the statement of the gentleman from California [Mr. Hosmer].

However, in Cannon's Precedents, volume 6 of the 1936 edition, section 630, the ruling pointed to by the gentleman from Texas [Mr. Wright] has been superceded by a subsequent ruling of the Chair:

> On January 23, 1913, immediately after prayer by the Chaplain and before the Journal had been read, Mr. James R. Mann, of Illinois, made the point of order that a quorum was not present. A call of the House was ordered, and a quorum having appeared, Mr. Augustus P. Gardner, of

Massachusetts, proposed to present a conference report.

Of course, a conference report is a highly privileged matter.

The Speaker ruled that no business was in order until the Journal had been read and approved.

Thus it would not be in order for the Speaker to recognize a member of the Committee on Rules to present a rule before the completion of the reading of the Journal of yesterday.

§ 2.13 A question of personal privilege (as opposed to a question of the privileges of the House) cannot be raised before the approval of the Journal.

On Oct. 8, 1968,(5) before the reading and approval of the Journal, on a day when the House had ordered the doors to the Chamber locked (various calls of the House and privileged motions having interrupted the reading of the Journal) Speaker John W. McCormack, of Massachusetts, declined to recognize a Member on a question of personal privilege:

Mr. [Robert] Taft [Jr., of Ohio]: Mr. Speaker——

The Speaker: For what purpose does the gentleman from Ohio rise?

Mr. Taft: Mr. Speaker, I have a privileged motion.

Mr. [Sidney R.] Yates [of Illinois]: A point of order, Mr. Speaker. That is not in order until the reading of the Journal has been completed.

The Speaker: Will the gentleman from Ohio state his privileged motion?

Mr. Taft: Mr. Speaker, my motion is on a point of personal privilege.

The Speaker: Will the gentleman from Ohio state whether it is a point of personal privilege or a privileged motion?

Mr. Taft: It is a privileged motion, and a motion of personal privilege.

Under rule IX questions of personal privilege are privileged motions, ahead of the reading of the Journal.

The Speaker: The Chair will advise the gentleman that a question of personal privilege should be made later after the Journal has been disposed of.

If the gentleman has a matter of privilege of the House, that is an entirely different situation.

When Mr. Taft again sought recognition and sought to raise a question of the privileges of the House, the Speaker heard the question and ruled that no question of the privileges of the House was stated. An appeal from the Speaker's ruling was laid on the table.

Motions to Rerefer Public Bills After Approval of Journal

§ 2.14 A motion or unanimous-consent request to correct the reference of a public bill may be made on any day immediately after the reading and approval of the Journal.

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5. 114 Cong. Rec. 30214–16, 90th Cong. 2d Sess.

On Apr. 2, 1935,⁽⁶⁾ following the approval of the Journal, Mr. Emanuel Celler, of New York, asked unanimous consent, by direction of the Committee on the Judiciary, that H.R. 6547, originally referred to the Committee on Foreign Affairs, be rereferred to the Committee on the Judiciary. When the request was objected to, Mr. Celler offered a motion for the same purpose. Speaker Joseph W. Byrns, of Tennessee, answered parliamentary inquiries on the place of the motion in the order of business:

> MR. [SCHUYLER OTIS] BLAND [of New York]: May I ask, according to the rules, if a motion to correct a reference must not be made immediately after the reading of the Journal and before any other business has been transacted?
>
> THE SPEAKER: There has been no business transacted, the Chair may say to the gentleman from Virginia, except unanimous-consent requests.
>
> MR. BLAND: I thought that was business. I have no interest in the pending matter at all.
>
> THE SPEAKER: The House has not proceeded with the business on the Speaker's table as yet. What has been done up to this time has been by unanimous consent.⁽⁷⁾

Parliamentarian's Note: In current practice, rereference of bills is usually done by unanimous consent and with the concurrence of both committees involved.

§ 2.15 The rule providing that rereference of bills on motion of a committee claiming jurisdiction may be made immediately after the reading of the Journal (Rule XXII clause 4) was construed to mean before any business was transacted, but the motion may be made after one-minute speeches are made.

On Apr. 21, 1942,⁽⁸⁾ following the approval of the Journal and some one-minute speeches, Mr. Samuel Dickstein, of New York, moved the rereference of a bill, by direction of the Committee on Immigration and Naturalization. Mr. John E. Rankin, of Mississippi, made the point of order that no

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6. 79 CONG. REC. 4878, 4879, 74th Cong. 1st Sess.

7. See also 83 CONG. REC. 1142, 1143, 75th Cong. 3d Sess., Jan. 26, 1938, where Speaker William B. Bankhead (Ala.) overruled a point of order against the consideration of a bill on the grounds that it had been improperly referred, after the committee of reference had reported the bill. The Chair alluded to Rule XXII clause 3 [subsequently Rule XXII, clause 4, *House Rules and Manual* § 854 (1979)] providing for the motion to correct reference and its place in the order of business.

8. 88 CONG. REC. 3571, 77th Cong. 2d Sess.

such motion was in order, and Speaker Sam Rayburn, of Texas, quoted the rule providing for the motion (Rule XXII clause 4) and overruled the point of order. He then ruled as follows on ensuing points of order:

> MR. RANKIN of Mississippi: Mr. Speaker, I make the point of order that the gentleman's motion has come too late. The bill has already been referred to the Committee on the Judiciary and printed, and the motion is not in order.
>
> THE SPEAKER: On the point that the motion comes to late in that business has been transacted in the House today, the Chair may say that since the reading of the Journal the only business that has been transacted has been 1-minute speeches. The Chair is constrained to overrule the point of order of the gentleman from Mississippi on the ground that he thinks it involves too technical a construction of the rule.

On motion of Mr. Rankin, the motion of rereference was laid on the table.

§ 2.16 The House granted consent that it be in order for a Member to move the rereference of a bill at any time during the day notwithstanding the rule (Rule XXII clause 4) requiring that such motions be made immediately after the reading of the Journal.

On June 18, 1952,(9) Mr. Carl Vinson, of Georgia, asked unanimous consent, after the reading of the Journal, that it be in order for him to make a motion at any time on that day to rerefer a bill. He stated that the purpose of the request was to defer offering the motion until another concerned Member should reach the floor, despite the requirement of Rule XXII clause 4, that motions to rerefer be made immediately after the reading of the Journal. The request was agreed to and Mr. Vinson offered the motion to rerefer later in the day's proceedings.

Business on the Speaker's Table

§ 2.17 Under the order of business prescribed by Rule XXIV, legislative business on the Speaker's table is not disposed of until the Journal has been approved, and executive communications on the Speaker's table are not referred when the House adjourns before the reading or approval of the Journal.

On Dec. 7, 1963,(10) Mr. William K. Van Pelt, of Wisconsin, made a point of order that a quorum was not present, immediately after the offering of prayer and before the approval of the Journal. Mr.

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9. 98 CONG. REC. 7532, 82d Cong. 2d Sess.

10. 109 CONG. REC. 23751, 23752, 88th Cong. 1st Sess.

John E. Moss, Jr., of California, moved that the House adjourn, and the motion was agreed to. Executive communications on the Speaker's table were not referred, in accordance with Rule XXIV clause 2, but were held at the Speaker's table and referred on Dec. 9, the next meeting day of the House.

§ 2.18 Senate bills substantially the same as House bills already favorably reported by a committee of the House and on the House Calendar may be called up for consideration, by direction of the committee reporting the bill, on any day immediately following the correction of reference of public bills.

On Mar. 26, 1934,[11] after the approval of the Journal and the correction of reference of public bills, pursuant to the order of business specified in Rule XXIV, the following proceedings took place on a Senate bill on the Speaker's table (Speaker Henry T. Rainey, of Illinois, presiding):

MR. [VINCENT L.] PALMISANO [of Maryland]: Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 2950) to authorize steam railroads to electrify their lines within the District of Columbia, and for other purposes.

THE SPEAKER: Is there objection to the request of the gentleman from Maryland?

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, I reserve the right to object.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. O'CONNOR: Is it necessary to ask unanimous consent to call up a District of Columbia bill today?

THE SPEAKER: The Chair is advised it is not. . . .

MR. [CARL E.] MAPES [of Georgia]: Mr. Speaker, I think it is a very easy matter to have this bill passed upon by the Interstate Commerce Commission. I dislike to object, but——

MR. [JOSEPH W.] BYRNS [of Tennessee]: Mr. Speaker, I make the point of order that it is too late to object. This is District day, and it is in order to call the bill up for consideration.

MR. [THOMAS L.] BLANTON [of Texas]: This bill is called up as a matter of right.

THE SPEAKER: The point of order is sustained.

MR. MAPES: Mr. Speaker, I listened very carefully as the bill was called up and watched the proceedings with that point in mind. After the colloquy with the gentleman from New York, the Republican leader, nothing was said except that the Clerk would report the bill. . . .

MR. O'CONNOR: I asked the Chair whether unanimous consent was necessary to call up this bill and the Chair ruled that it was not necessary.

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[11] 78 CONG. REC. 5425–27, 73d Cong. 2d Sess.

THE SPEAKER: That was the ruling of the Chair.

MR. MAPES: Mr. Speaker, I have no desire to be technical in this. If the gentleman from Maryland wishes to move that the House consider this legislation, of course, I cannot object to that, but I do object to taking it up by unanimous consent.

THE SPEAKER: This bill is on the House Calendar.

MR. MAPES: But no effort has been made to call it up except by unanimous consent, and unanimous consent has not yet been given.

THE SPEAKER: This is District of Columbia day, and the Acting Chairman of the District Committee, by direction of that committee, may call this bill up as a matter of right. The Chair will say that a similar House bill was favorably reported by the District Committee and placed on the House Calendar before the Senate bill came over. Under rule XXIV, clause 2, the Committee on the District of Columbia could dispose of this bill under the provisions of clause 1 of the same rule or the committee could dispose of it under clause 8 of that rule.

Parliamentarian's Note: Rule XXIV clause 2 [*House Rules and Manual* § 882 (1979)] provides for the immediate disposition (after the correction of reference of public bills pursuant to clause 1) of Senate bills substantially the same as House bills already reported and not required to be considered in Committee of the Whole, and Rule XXIV clause 8 [*House Rules and Manual* § 899 (1979)] provides for the consideration of District of Columbia business on the second and fourth Mondays after the disposition of business on the Speaker's table.

§ 2.19 House bills with Senate amendments which do not require consideration in the Committee of the Whole may be at once disposed of as the House may determine and are privileged matters on the Speaker's table.

On Feb. 1, 1937,[12] Mr. John J. O'Connor, of New York, called up House Joint Resolution 81, to create a joint congressional committee, with a Senate amendment, for immediate consideration as a privileged resolution, and moved the previous question thereon. Speaker William B. Bankhead, of Alabama, responded to a parliamentary inquiry on the privileged nature of the request:

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SNELL: I understood the gentleman called this up as a privileged matter. On what ground is this a privileged matter?

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[12] 81 CONG. REC. 644, 645, 75th Cong. 1st Sess.

The Speaker: In reply to the inquiry of the gentleman from New York [Mr. Snell], under paragraph 2 of rule XXIV of the House Manual it is stated:

> Business on the Speaker's table shall be disposed of as follows:
>
> Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner and with the same right of correction as public bills presented by Members.

Here is the pertinent part in answer to the gentleman's inquiry:

> But House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills.

Mr. Snell: I appreciate that, and I have no objection to the consideration of this matter, but I wondered if it was a matter that could be taken up without being referred back to the committee for consideration.

The Speaker: Under the rule which the Chair has just read, the Chair is clearly of the opinion that it may be brought up in this manner.

Parliamentarian's Note: As most bills with Senate amendments require consideration in the Committee of the Whole (before the stage of disagreement), they are brought up for disposition either by unanimous consent, or by a privileged motion to go to conference under Rule XX clause 1, *House Rules and Manual* § 827 (1979). Such requests and motions may be made at any time during the proceedings of the House when other business is not under consideration, and need not be made after the approval of the Journal under Rule XXIV [*House Rules and Manual* § 878 (1979)].

§ 2.20 The Speaker declined to recognize a Member for a unanimous-consent request to take a bill from the Speaker's table and concur in the Senate amendments where such a request was made without the authorization of the chairman of the committee involved and where Members had been informed there would be no further legislative business for the day.

On July 31, 1969,(13) Mr. Hale Boggs, of Louisiana, sought recognition to ask unanimous consent to take from the Speaker's table a bill (H.R. 9951) providing for the collection of federal unemployment tax, with Senate amendments thereto, and concur in the Senate amendments. Speaker John W. McCor-

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13. 115 Cong. Rec. 21691, 91st Cong. 1st Sess.

mack, of Massachusetts, declined to recognize for that purpose:

> **The Speaker:** The Chair will state that at this time the Chair does not recognize the gentleman from Louisiana for that purpose.
>
> The chairman of the Committee on Ways and Means is at present appearing before the Committee on Rules seeking a rule and Members have been told that there would be no further business tonight.
>
> The Chair does not want to enter into an argument with any Member, particularly the distinguished gentleman from Louisiana whom I admire very much. But the Chair has stated that the Chair does not recognize the gentleman for that purpose.
>
> **Mr. Boggs:** Mr. Speaker, the gentleman from Louisiana equally admires the gentleman in the chair. I thoroughly understand the position of the distinguished Speaker.

§ 2.21 A motion to concur in the Senate amendments to a House concurrent resolution providing for the signing of enrolled bills during a period of adjournment is privileged under Rule XXIV clause 2.

On Oct. 13, 1970,(14) Mr. Carl Albert, of Oklahoma, brought up as a privileged matter a House concurrent resolution, on the Speaker's table, with Senate amendments, authorizing the signing of enrolled bills during a period of adjournment. The House agreed to the Senate amendments.

Parliamentarian's Note: The *Congressional Record* incorrectly showed that the Majority Leader called up the Senate amendments by unanimous consent; they were in fact handled as privileged, pursuant to Rule XXIV clause 2.

§ 2.22 The reception of a Presidential message is a matter of high privilege in the House, and in response to a parliamentary inquiry the Speaker pro tempore indicated that where such a message is received it is laid before the House as soon as business permits and the precedents do not justify its being held at the desk until another legislative day.

On June 24, 1968,(15) after the House had completed its legislative business for the day, Speaker pro tempore Carl Albert, of Oklahoma, received a message from the President, responded to a parliamentary inquiry as to its disposition, and a quorum call ensued:

> **The Speaker Pro Tempore:** The Chair lays before the House a message from the President of the United States.
>
> **Mr. [Durward G.] Hall** [of Mis-

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(14) 116 Cong. Rec. 36600, 91st Cong. 2d Sess.

(15) 114 Cong. Rec. 18330, 18331, 90th Cong. 2d Sess.

souri]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Hall: Mr. Speaker, in the opinion of the Chair is it necessary that a Presidential message when delivered in writing be presented to the Members of the House immediately or could it be held until the next legislative day?

The Speaker Pro Tempore: The Chair will advise the distinguished gentleman that when the House is in session, a message from the President is laid before the House.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry, is this done by tradition, at the will of the Chair, or is it supported by a rule of the House?

The Speaker Pro Tempore: It is supported by the custom of the House and the provisions of the constitution.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry.

Could the Chair advise the Members of the House as to the subject of this particular message, arriving at 4:45 in the evening?

The Speaker Pro Tempore: It relates to the matter of firearms legislation.

Mr. Hall: Mr. Speaker, in my opinion the Members of the House should hear anything that is this important and I make a point of order that a quorum is not present.

The Speaker Pro Tempore: Evidently, a quorum is not present.

§ 2.23 Where messages from the Senate and the President are received during a call of the House, and the House adjourns when a quorum fails to appear on the call, the messages are held at the Speaker's table until it next convenes.

On Oct. 12, 1968,(16) a message from the Senate and a message from the President, which had been held at the Speaker's table from the previous day, their having been received in the absence of a quorum, were laid before the House (Speaker John W. McCormack, of Massachusetts, presiding).

§ 2.24 A message from the Senate may be received by the House after the previous question has been ordered, pending the question on the passage of a bill.

On Oct. 3, 1969, the Committee of the Whole rose and reported back to the House, with sundry amendments, a bill which had been under consideration before the Committee. Speaker John W. McCormack, of Massachusetts, stated that under the rule, the previous question was considered as ordered. Further consideration of the bill was interrupted for the receipt of a message from the Senate (announcing that the Senate had passed a Senate bill).(17)

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16. 114 Cong. Rec. 31116, 31117, 90th Cong. 2d Sess.
17. 115 Cong. Rec. 28487, 91st Cong. 1st Sess.

§ 3. Unfinished and Postponed Business

Rule XXIV clauses 1[18] and 3[1] provide for the consideration of unfinished business and its place in the order of business. Thus, clause 3 provides:

> The consideration of the unfinished business in which the House may be engaged at an adjournment, except business in the morning hour, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of, and the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

Generally, unfinished business coming over from a previous day does not automatically come before the House for consideration, but must be called up by a Member in charge of the legislation.[2] Moreover, as indicated by Rule XXIV clause 3, where unfinished business belongs to a certain class of business, such as Private Calendar business[3] and District of Columbia business,[4] the legislation goes over to the next day eligible for the call of the appropriate calendar. If, however, the previous question has been ordered on business unfinished when the House adjourns, such business becomes in order on the next legislative day after the approval of the Journal,[5] except on Calendar Wednesday. Discharged bills, brought before the House by a successful motion to discharge under Rule XXVII clause 4,[6] remain the unfinished business (when called up for consideration) until disposed of.[7]

Recognition to call up unfinished business or to control the floor thereon, where the previous question has been rejected on a prior day and the House has proceeded to other business, should pass to a Member who had opposed the previous question, except where no such opposition Member immediately seeks recognition and the committee manager is directed to call up the matter on the day set aside for that class of business (e.g., District Day) and to offer committee amendments.

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[18] *House Rules and Manual* § 878 (1979).

[1] *House Rules and Manual* § 885(1979).

[2] See §§ 3.1–3.5, infra. Certain categories of business do come up automatically when unfinished or postponed. Examples are the consideration of a veto message postponed to a day certain (see § 3.38, infra), questions on which the previous question has been ordered (see § 3.20, infra), and recorded votes postponed to a certain day (see § 3.18, infra).

[3] See § 3.35, infra.

[4] See §§ 3.25, 3.26, infra.

[5] See §§ 3.20, 3.21, infra. And see 7 Cannon's Precedents § 854.

[6] *House Rules and Manual* § 908 (1979).

[7] See § 3.23, infra.

Unfinished business is preceded by otherwise privileged business, such as the receipt of a message and motions to discharge on discharge days.(8)

Votes on questions may become the unfinished business on a following day when votes are postponed (by special order) or when a quorum fails to vote on a question and the House adjourns.(9) Votes on unfinished business are put de novo, if previously postponed by unanimous consent pending an objection to a vote for lack of a quorum, and any Member has the same rights as when the question was first put.(10) If the Committee of the Whole rises having ordered tellers, the appointment of tellers is the unfinished business when the Committee resumes, and ordering tellers may be vacated only by unanimous consent.(11)

Under prior practice, before Rule XXI was amended(12) to delete the right of any Member to demand the reading in full of the engrossed copy of a bill, such a demand could render the bill unfinished business until the engrossed copy could be provided.(13)

Where a measure before the House is postponed to a day certain either by motion (when in order) or by unanimous consent, the measure becomes the unfinished business on the day to which postponed.(14)

Calling Up Unfinished Business

§ 3.1 Unfinished business on a District of Columbia Monday does not come up automatically when that class of business is again in order but may be called up by a Member in charge of the legislation.

On May 9, 1932,(15) Speaker John

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8. See §§ 3.7, 3.9, infra.
9. See §§ 3.15–3.19, infra.
10. See § 3.18, infra.
11. See § 3.13, infra.
12. See *House Rules and Manual* § 830 and note thereto (1979).
13. See § 3.32, infra.
14. See §§ 3.18, 3.29 (postponed roll call votes), 3.22 (postponed conference report), 3.36–3.38 (veto messages postponed by motion), infra.
15. 75 Cong. Rec. 9836, 72d Cong. 1st Sess.

N. Garner, of Texas, answered a parliamentary inquiry on the order of business on District of Columbia Monday:

> MRS. [MARY T.] NORTON [of New Jersey]: Mr. Speaker, I ask unanimous consent to call up concurrent resolution (S. Con. Res. 27), and yield five minutes to the gentleman from Ohio, Mr. Harlan, to offer an amendment thereto.
>
> MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. STAFFORD: Mr. Speaker, on the last day given over to District business, House Joint Resolution 154, providing for a merger of the street-railway systems in the District of Columbia, was the unfinished business. As this joint resolution was the unfinished business when the District Committee last had the call, is it not the unfinished business when the House resumes consideration of District business?
>
> THE SPEAKER: The Chair thinks not, because a motion to consider it is necessary. Wherever a motion is required, the unfinished business has no precedence over any other business.

§ 3.2 On one occasion, it was held that the rule that recognition passes to the opposition after rejection of the previous question is subject to the following exception: where other business intervenes and occupies the remainder of the day immediately after defeat of the previous question, the bill on which the previous question was rejected must be subsequently called up as unfinished business by a Member directed by his committee to call up that special class of business on a day when that business is in order (since the Speaker does not lay such special bills before the House as unfinished business). Once that Member has called up the bill, however, the Speaker stated he would recognize a Member opposed who immediately sought to offer an amendment.

On Feb. 8, 1932,[16] Vincent L. Palmisano, of Maryland, Chairman of the Committee on the District of Columbia, called up as unfinished business S. 1306, to provide for the incorporation of the District of Columbia Commission on the George Washington Bicentennial.

Mr. Fiorello H. LaGuardia, of New York, raised an inquiry as to the parlimentary situation. He stated that the bill had previously been before the House (on the preceding District of Columbia Monday) and that the previous question had been rejected, requiring recognition to offer amendments or motions to pass to the opposition. [On the preceding District of Columbia Mon-

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16. 75 CONG. REC. 3548–50, 72d Cong. 1st Sess.

day, the Chair had recognized another Member, immediately after rejection of the previous question on S. 1306, to call up a general appropriation bill, which was considered until adjournment on that day.]

Speaker pro tempore Thomas L. Blanton, of Texas, however, ruled that the chairman of the reporting committee was entitled to recognition since the bill could come before the House only by being called up as unfinished business.

The proceedings were as follows:

Mr. LaGuardia: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. LaGuardia: The bill which the gentleman calls up was before the House two weeks ago.

The Speaker Pro Tempore: This is unfinished business. We have had a second reading of the bill at the former meeting when the bill was considered on last District day.

Mr. LaGuardia: But the previous question was voted down.

The Speaker Pro Tempore: The previous question was then voted down. It is before the House now for further consideration, just where we left off before.

Mr. LaGuardia: I ask recognition in opposition.

The Speaker Pro Tempore: The gentleman from Maryland [Mr. Palmisano], who is the ranking majority member of the committee, is entitled to recognition first to offer committee amendments, and then the gentleman from New York will be recognized.

Mr. [William H.] Stafford [of Wisconsin]: Mr. Speaker, I assume that when this bill is now brought up we are brought back to the same legislative situation we were in when it was last considered.

The Speaker Pro Tempore: That is the situation.

Mr. Stafford: The previous question was then voted down. At that moment any person who wished to propose an amendment would have had the privilege of being recognized. I claim that any person who wishes to offer an amendment has prior recognition to the gentleman from Maryland.

The Speaker Pro Tempore: But the previous question having been voted down, it did not take off the floor the gentleman from Maryland, who stands in the position of chairman of the committee, so the parliamentarian informs the Chair.

Mr. Stafford: The very fact that the previous question was voted down granted the right to the opposition to offer an amendment and have control of the time. . . .

The Speaker Pro Tempore: The Chair will state the parliamentary situation. On a previous District day when this bill was up for consideration, the previous question was moved and the House voted down that motion. Then the opposition clearly was entitled to recognition. This is another legislative day; and that being true, it is the duty of the Chair to recognize the one standing as chairman of the committee, who is the gentleman from Maryland, to offer committee amendments. Then the Chair will recognize someone in opposition to the bill. The Chair is advised by the parliamentarian that such is the correct procedure.

Mr. LaGuardia: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. LaGuardia: I can not follow the statement of the Chair that the bill is coming before the House de novo. The Chair properly stated that the bill now is the unfinished business. A bill can not change its status because it is the unfinished business and carried over to another day. The previous question having been voted down, the bill is now open to the House for amendment, and on that I have asked for recognition by the Chair to offer an amendment.

The Speaker Pro Tempore: The Chair will rule that the one acting for the committee in calling up the bill has a right to first offer committee amendments. If the proceedings had continued on the day the previous question was voted down, then any Member opposing the bill gaining recognition could have offered an amendment; but this being another legislative day, it is the duty of the Chair to recognize the acting chairman of the committee in calling up the bill to offer committee amendments, and the Chair has done that. Regardless of his own opinion, the Chair is guided by the parliamentarian. When a parliamentary situation arises whereby the Chair can recognize some one opposed to the bill, the Chair will do that. . . .

Mr. LaGuardia: I desire recognition for the purpose of getting the floor.

Mr. Speaker, the first proposition before us, which I believe is more important than the passage of the bill or the merits of this particular bill, is the parliamentary situation.

The bill was before the House two weeks ago and was considered under the House rules. At that time the time was entirely under the control of the chairman of the committee, and after holding the floor for some time the gentlewoman from New Jersey moved the previous question and the previous question was voted down. Thereafter the House took up other business.

The bill comes back to us to-day and I submit that the previous question having been voted down, the bill retains that status. It can not acquire a new status. The previous question having been voted down, that can not be ignored at this time; and that being so, the bill comes before the House as unfinished business, and the bill is before the House now for amendment.

The Speaker Pro Tempore: The Chair will so hold, that the bill is now before the House for amendment, but the committee had the right first to offer its committee amendments. If there are any other amendments, the Chair will recognize any Member to offer them.

Parliamentarian's Note: Bills which are in order on certain days under the rules of the House do not automatically come before the House, but must be called up by an authorized committee member.

Therefore, in this instance, the Chair recognized the Chairman of the Committee on the District of Columbia to bring the bill before the House, while indicating he would recognize a Member opposed who immediately sought to offer an amendment.

§ 3.3 The question as to when the House will consider a bill that was unfinished on a previous day is always within the control of a majority of the House.

On Apr. 26, 1948,[17] Speaker Joseph W. Martin, Jr., of Massachusetts, answered a parliamentary inquiry as to when a bill, brought up in the House by a motion to discharge, could be considered if not finished on the day on which brought up. The Speaker heard Mr. Earl C. Michener, of Michigan, on the inquiry and then stated as follows:

> The Chair is interested in the valued comments of the distinguished gentleman from Michigan. Of course, the Chair is unaware of the intent or purpose back of the rule when it was first formulated. All he has to guide him is the rule itself as it appears before him in print. The Chair agrees with the gentleman from Michigan that the House can immediately consider the legislation after the motion to discharge the committee is agreed to, but the rule states "and if unfinished before adjournment of the day on which it is called up, it shall remain the unfinished business until it is fully disposed of."
>
> That provision does not state definitely that the bill must come up on the following day, but that it shall remain the unfinished business. The gentleman's point that the bill could be postponed indefinitely of course is correct, in a sense, but after all the rules are based on common sense, and no one would anticipate that the side that procured enough signatures to a discharge petition to bring a bill before the House would filibuster their own bill.
>
> While the rule perhaps is not quite as definite as it might be, it is the opinion of the Chair that the consideration of the bill could go over until Wednesday if the proponents of the bill do not call it up on tomorrow, and that it would be in order on Wednesday as the unfinished business.
>
> The Chair believes that unless the gentleman from South Carolina [Mr. Rivers] or someone on his side of the issue, calls it up on tomorrow, it can be called up on Wednesday and will be the unfinished business on that day. The Chair also wishes to state that he will not recognize anyone on the affirmative side of this matter unless the gentleman from South Carolina is absent. It is not necessary to call it up on tomorrow and it can be called up on Wednesday, at which time it will be the unfinished business.

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[17] 94 Cong. Rec. 4877, 4878, 80th Cong. 2d Sess.

The Chair will also remind Members that it is always within the control of the majority of the House to determine what should be done.

§ 3.4 The adoption of a resolution making in order the consideration of a bill does not make the bill the unfinished business the next day, and the bill can only be called up by a Member designated by the committee to do so.

On July 19, 1939,(18) the House adopted a resolution from the Committee on Rules making in order the consideration of a bill. Speaker William B. Bankhead, of Alabama, answered a parliamentary inquiry on the status of the bill thereby made in order as unfinished business:

MR. [CLAUDE V.] PARSONS [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. PARSONS: Mr. Speaker, the House having adopted the rule, is not this bill the unfinished business of the House on tomorrow?

THE SPEAKER: Not necessarily. The rule adopted by the House makes the bill in order for consideration, but it is not necessarily the unfinished business. It can only come up, after the adoption of the rule, by being called up by the gentleman in charge of the bill.

§ 3.5 When the Committee of the Whole during consideration of a bill on Calendar Wednesday votes to rise and the House then rejects a motion to adjourn, Calendar Wednesday business is still before the House, and if the chairman of the appropriate committee calls up the same bill and the question of consideration is decided in the affirmative, the House automatically resolves itself into the Committee of the Whole and resumes consideration of the bill where it left off.

On Feb. 22, 1950,(19) the Committee of the Whole had under consideration H.R. 4453, the Federal Fair Employment Practice Act, which had been called up by the Committee on Education and Labor under the Calendar Wednesday procedure. The Committee agreed to a motion to rise, and, pending a demand for the yeas and nays on the motion to adjourn, Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry as follows:

MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HARRIS: As I understand, the roll call now is on the motion to adjourn.

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18. 84 CONG. REC. 9541, 76th Cong. 1st Sess.

19. 96 CONG. REC. 2238–40, 81st Cong. 2d Sess.

THE SPEAKER: That is correct.

MR. HARRIS: If the motion to adjourn is not agreed to, then what will be the parliamentary situation?

THE SPEAKER: It will be Calendar Wednesday business.

MR. HARRIS: A further parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state it.

MR. HARRIS: Do we automatically then go back into Committee?

THE SPEAKER: If the gentleman from Michigan calls the bill up again, yes.

Following the rejection of the motion to adjourn, Mr. John Lesinski, of Michigan, called up, by direction of the Committee on Education and Labor, the same bill. After the House decided the question of consideration in the affirmative, the Speaker directed that the House automatically resolve itself into the Committee of the Whole for the further consideration of the bill.

Precedence and Order of Unfinished Business

§ 3.6 Where the House has postponed to a day certain a veto message and for the same day created a special order for the reading of Thomas Jefferson's First Inaugural Address, after the reading of the Journal and disposition of matters on the Speaker's table, the veto message is first considered.

On Apr. 14, 1948, Speaker Joseph W. Martin, Jr., of Massachusetts, stated, following the approval of the Journal, the order of business: (1) the unfinished business, a veto message postponed to that day by motion; (2) the reading of Jefferson's First Inaugural Address by a Member designated by the Speaker pursuant to a special order for that day (providing for the reading after the approval of the Journal and disposition of matters on the Speaker's table); and (3) unanimous-consent requests and one-minute speeches.(20)

§ 3.7 Messages from the President, including one received the preceding day, were read and referred before the House proceeded with the unfinished business (the vote on a resolution pending on the preceding day when the House adjourned in the absence of a quorum).

On Oct. 19, 1966,(21) following the approval of the Journal, the Speaker laid before the House two messages from the President, which were read and referred, before announcing that the unfinished business was the vote on agreeing to a

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20. 94 CONG. REC. 4427, 80th Cong. 2d Sess.

21. 112 CONG. REC. 27640, 89th Cong. 2d Sess.

resolution coming over from the preceding day. (On Oct. 18, a quorum had failed to appear on an automatic roll call vote on agreeing to the resolution, and the House had adjourned without completing action thereon.)

§ 3.8 The Chair declined to recognize Members for extensions of remarks and one-minute speeches before proceeding with unfinished business on which the previous question had been ordered.

On Oct. 19, 1966,(1) Speaker John W. McCormack, of Massachusetts, announced, following the approval of the Journal and the receipt of messages from the President, that the Chair would receive unanimous-consent requests after the "disposition of pending business." The pending business was unfinished business from the prior day, the vote on agreeing to a resolution on which the previous question had been ordered before the House adjourned in the absence of a quorum.

§ 3.9 The regular order of business, such as the relative precedence of a motion to discharge on discharge days over unfinished business, may be varied by unanimous consent.

On May 8, 1936,(2) Speaker Joseph W. Byrns, of Tennessee, answered a parliamentary inquiry as to the order of business and the power of the House to change such order by unanimous consent:

Mr. [William B.] Bankhead [of Alabama]: Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

Mr. [Gerald J.] Boileau [of Wisconsin]: Mr. Speaker, reserving the right to object, and I shall not object, will the Speaker make the situation clear with reference to the legislative program for Monday?

As I understand it, it will be in order before we complete this bill to take up the question of the discharge of the Rules Committee from further consideration of the Frazier-Lemke bill. I would like to ask the Speaker if my understanding is correct, if consideration of the discharge petition would come up before the vote on this bill?

The Speaker: The Chair thinks it would unless there is a previous understanding. The matter of which shall take precedence can be fixed by consent.

Mr. Boileau: I appreciate that, Mr. Speaker. Many Members interested in the Frazier-Lemke bill are anxious to know just what the situation is going to be.

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(1) 112 Cong. Rec. 27640, 89th Cong. 2d Sess.

(2) 80 Cong. Rec. 7010, 74th Cong. 2d Sess.

MR. [BERTRAND H.] SNELL [of New York]: It would seem to me if the Speaker will permit, that the vote on the pending bill would be the unfinished business before the House on Monday.

THE SPEAKER: The Chair will state to the gentleman from Wisconsin that, by consent, an agreement can be made whereby the vote on the motion to recommit the pending bill, or a roll call on its passage, can be had first, and then to take up the motion to discharge the committee.

Parliamentarian's Note: Under Rule XXVII clause 4, discharge motions are in order immediately after approval of the Journal, and thus ordinarily take precedence under Rule XXIV over unfinished business (see § 3.23, infra).

§ 3.10 By unanimous consent, the House proceeded to the immediate consideration of an important bill pending on the Union Calendar before taking up unfinished business (votes on certain bills carried over from preceding days).

On Apr. 6, 1966,(3) Speaker John W. McCormack, of Massachusetts, made the following statement:

The next order of business is the matters that were passed over from Monday and Tuesday. However, the Chair desires to state that there is a bill out of the Committee on Ways and Means relating to the extension of time for filing for medicare. If there is no objection on the part of the House, the Chair would like to recognize the gentleman from Arkansas [Mr. Mills] to submit a unanimous-consent request to bring this bill up. The Chair also understands it is the intention to have a rollcall on the bill. The Chair is trying to work this out for the benefit of the Members. Is there objection to the Chair recognizing the gentleman from Arkansas [Mr. Mills], for the purpose stated by the Chair? The Chair hears none and recognizes the gentleman from Arkansas [Mr. Mills].

In Committee of the Whole

§ 3.11 Business unfinished on District of Columbia Day does not come up until the next day on which that business is in order.

On June 26, 1939,(4) the Committee of the Whole was considering District of Columbia business brought up on District of Columbia Day. Chairman Fritz G. Lanham, of Texas, answered a parliamentary inquiry as to the effect on the pending bill should the Committee rise without completing the bill on that day:

MR. [WALTER G.] ANDREWS [of New

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3. 112 CONG. REC. 7749, 89th Cong. 2d Sess.

4. 84 CONG. REC. 7927, 7938, 76th Cong. 1st Sess.

York]: Mr. Chairman, I move that the Committee do now rise.

Mr. [Kent E.] Keller [of Illinois]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Keller: Mr. Chairman, what would be the effect on this bill if we should vote to rise?

The Chairman: It would be the unfinished business of the Committee on the District of Columbia on the next day that committee is called.

Mr. Keller: What day would that be?

The Chairman: The second and fourth Monday of each month are District days.

Mr. Keller: If we want present consideration of this bill we will have to vote against the motion?

The Chairman: I think the membership is sufficiently informed with reference to the motion. The question is on the motion to rise.

§ 3.12 The question as to when the Committee of the Whole will resume the consideration of a bill unfinished when the Committee rises is for the Speaker and the House to determine, and not for the Chairman of the Committee of the Whole.

On Apr. 26, 1948,(5) Chairman Leslie C. Arends, of Illinois, answered a parliamentary inquiry as follows in the Committee of the Whole:

Mr. August H. Andresen [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. August H. Andresen: Mr. Chairman, I understand that the Committee will rise at 4 o'clock. It is also my understanding of the rules that this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.

I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.

The Chairman: The Chair may say that is a matter for the Speaker of the House and the House itself to determine. It is not something within the jurisdiction of the Chair to decide.

§ 3.13 When the Committee of the Whole rises with an order for tellers pending, it is the unfinished business and may be dispensed with only by unanimous consent when the Committee resumes its sitting.

On July 2, 1947, Chairman Earl C. Michener, of Michigan, answered a parliamentary inquiry as to the unfinished business in the Committee of the Whole, the Committee having risen on the preceding day after tellers were demanded

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5. 94 Cong. Rec. 4873, 4874, 80th Cong. 2d Sess.

and ordered on an amendment to the pending bill:

Mr. [George A.] Dondero [of Michigan]: Mr. Chairman, has the Committee reached the item of flood control on page 8, line 14, of the bill?

The Chairman: It has not.

When the Committee rose yesterday, the so-called Rankin amendment was pending. A voice vote had been taken. Tellers were demanded and ordered.

Without objection, the Clerk will again read the so-called Rankin amendment.

There was no objection.

Mr. [John E.] Rankin [of Mississippi]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Rankin: Mr. Chairman, is it not in order to vacate or disregard the standing vote and take the standing or voice vote again?

The Chairman: Tellers have already been ordered.

Mr. Rankin: I understand that, Mr. Chairman, but I believe that where a vote is not completed on one day it is taken again when the question again comes up for consideration.

The Chairman: The gentleman's inquiry is: Can the order for tellers be vacated, and the Committee proceed de novo on the amendment? That can be done by unanimous consent.

Mr. Rankin: Mr. Chairman, I ask unanimous consent that that be done.

The Chairman: The gentleman from Mississippi asks unanimous consent that the proceedings on the vote on the Rankin amendment when the Committee was last in session be vacated and that the vote be taken de novo. Is there objection?

Mr. [Albert J.] Engel of Michigan: I object, Mr. Chairman.

The Chairman: The Clerk will again report the amendment.

The Clerk again reported the amendment offered by Mr. Rankin.

The Chairman: The Chair appoints the gentleman from Michigan [Mr. Engel] and the gentleman from Mississippi [Mr. Rankin] to act as tellers.

The Committee again divided; and the tellers reported there were—ayes 71, noes 115.[6]

Unfinished Business Following Recess

§ 3.14 Upon concluding a recess, called by the Speaker pending receipt of an engrossed bill while a House resolution was pending before the House, the Speaker announced the unfinished business to be the reading of the engrossed copy of the bill, the Food Stamp Act of 1964.

On Apr. 8, 1964,[7] Speaker John W. McCormack, of Massachusetts, put the question on the engrossment and third reading of H.R. 10222, the Food Stamp Act of 1964, and Mr. Charles S. Gubser, of California, demanded the reading of the engrossed copy, which was not yet prepared. The House then proceeded to the consideration of House Resolution 665, dealing with certain Senate amendments to a House bill. Pending such consideration, the Speaker declared a recess subject to the call of the Chair (pursuant to such authority granted the Speaker for any time during that day), pending the receipt of the engrossed copy of H.R. 10222.

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[6] 93 Cong. Rec. 8136, 8137, 80th Cong. 1st Sess.

[7] 110 Cong. Rec. 7302–04, 88th Cong. 2d Sess.

The recess having expired, the Speaker called the House to order and stated that the unfinished business was the reading of the engrossed copy of H.R. 10222, which he directed the Clerk to read. When Mr. Oliver P. Bolton, of Ohio, propounded a parliamentary inquiry regarding the status of House Resolution 665 as the unfinished business properly before the House, the Speaker recognized Mr. Richard Bolling, of Missouri, to withdraw House Resolution 665, thereby terminating the reason for the inquiry.

Parliamentarian's Note: This precedent occurred before the 89th Congress, when Rule XXI was amended to eliminate the provision allowing any Member to demand the reading in full of the engrossed copy of a bill.

Roll Call Votes Coming Over From Previous Day

§ 3.15 When a Member objects to a vote on an amendment on the ground that a quorum is not present and further proceedings are then postponed to a future day by unanimous consent, the question on adoption of the amendment is put de novo on such future day and a roll call is not necessarily automatic at that time.

On Mar. 23, 1953,[8] Speaker Joseph W. Martin, Jr., of Massachusetts, answered a parliamentary inquiry on the effect of a unanimous-consent agreement to postpone to a future day the question on adoption of an amendment to a bill on the District of Columbia Calendar, where the vote had been objected to on the ground that a quorum was not present:

> MR. [WAYNE L.] HAYS of Ohio: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HAYS of Ohio: Mr. Speaker, am I correct in saying that the second order of business on Wednesday next will be a rollcall on this amendment.
>
> THE SPEAKER: Not a rollcall; it will be a vote on the amendment.
>
> MR. HAYS of Ohio: Mr. Speaker, I made the point of order that a quorum

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[8] 99 CONG. REC. 2251, 2252, 83d Cong. 1st Sess.

was not present, and under those circumstances the rollcall is automatic. I will not agree to any withholding of it unless there is a rollcall, because a rollcall is automatic. I think the Speaker will agree that a quorum is not present now.

THE SPEAKER: The gentleman is mistaken in his impression. Today a rollcall would be automatic, but not on Wednesday, unless the House so orders.

MR. HAYS of Ohio: I do not want to agree to anything like that, Mr. Speaker.

THE SPEAKER: It has already been agreed to. The gentleman has forfeited any rights he might have. I am very sorry if he did not understand the situation.

§ 3.16 Where a quorum fails to respond on an automatic roll call vote on a pending resolution, and the House then adjourns, the unfinished business when the House again convenes is the vote on the resolution, and the Speaker puts the question on its adoption de novo.

On Oct. 18, 1966,(9) Speaker John W. McCormack, of Massachusetts, put the question on agreeing to House Resolution 1062, directing the Speaker to certify to the United States Attorney a report of the Committee on Un-American Activities on the refusal of Jeremiah Stamler to testify before the said committee. Objection was made to the vote on the ground that a quorum was not present, and a quorum failed to respond on the ensuing automatic roll call. In response to a parliamentary inquiry propounded by Mr. Leslie C. Arends, of Illinois, the Speaker stated that in the event a quorum did not develop and the House adjourned, the first order of business on the following day would be the vote on the resolution. A quorum not having appeared, the House adjourned before completing action on the resolution.

On Oct. 19, 1966,(10) Speaker McCormack laid before the House several messages from the President following the approval of the Journal, and then announced that the unfinished business was the vote on agreeing to House Resolution 1062. The Speaker put the question on the resolution, and Mr. John Bell Williams, of Mississippi, objected to the division vote on the ground that a quorum was not present. On the automatic roll call vote, the resolution was agreed to.

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9. 112 CONG. REC. 27512, 27513, 89th Cong. 2d Sess.

10. *Id.* at pp. 27640, 27641.

§ 3.17 Where a quorum fails to respond on an automatic roll call vote on a pending motion, and the House adjourns, the unfinished business when the House again convenes is the vote on the motion, and the Speaker puts the question de novo.

On Oct. 13, 1962,(11) Speaker John W. McCormack, of Massachusetts, made the following statement as to the unfinished business:

> The unfinished business is the vote on the motion of the gentleman from Missouri [Mr. Cannon].
>
> Without objection, the Clerk will again report the motion of the gentleman from Missouri.
>
> There was no objection.
>
> The Clerk read as follows:
>
> > Mr. [Clarence] Cannon moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$791,580,500".
>
> THE SPEAKER: The question is on the motion.

On Oct. 12, the preceding day, the House had adjourned following the failure of a quorum to appear on an automatic rollcall vote on the motion offered by Mr. Cannon.(12)

§ 3.18 Where a Member objects to a vote on the ground that a quorum is not present and further proceedings are postponed (pursuant to a unanimous-consent request putting roll call votes over until later in the week), the Speaker puts the question de novo when the bill is again before the House as unfinished business, and any Member has the same rights as when the question was originally put and may ask for the yeas and nays (unless previously refused) or, if a quorum is not present, may object on that ground; but the fact that a quorum was not present on the prior day, when the vote was objected to, does not assure a roll call vote when the question is again put as unfinished business.

On Oct. 7, 1965, the unfinished business was the final action on several bills which had been considered on Oct. 5 and 6 but whose further consideration had been postponed to Oct. 7, pursuant to a unanimous-consent agreement on Oct. 1 that all roll call votes demanded on Oct. 5 or 6 be put over until Oct. 7. Speaker John W. McCormack, of Massachusetts, answered parliamentary inquries on the procedures to be followed on the unfinished business and on the

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11. 108 CONG. REC. 23474, 23475, 87th Cong. 2d Sess.
12. *Id.* at p. 23434.

rights of Members in relation thereto:

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Hall: Mr. Speaker, if on a previous day where under the unanimous-consent agreement of October 1, 1965, of this House objection was made on the basis that a quorum was not present and the point of order was made that a quorum was not present and the Speaker thereafter did state that evidently a quorum was not present and that the bill would be put over per the prior agreement; should that rollcall come automatically today when we are back in session and released from that agreement?

The Speaker: In response to the parliamentary inquiry, the Chair will state that the vote comes up de novo and Members have the same rights that they had when the matter was being considered on the previous day.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry.

If I understand the distinguished Speaker correctly, then being de novo, objection would still have to be made on the same basis and as to whether a quorum was then present, it would still be honored?

The Speaker: A Member could demand the yeas and nays and if a sufficient number of Members are in favor of taking the vote by the yeas and nays there would be a rollcall vote of course. Or a Member could object to the vote on the ground that a quorum is not present and, of course, if a quorum is not present the rollcall would be automatic.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry.

If there was then a quorum present, however, it would not revert to the previous fact and therefore an individual Member would have to have stood on his rights at the time the unanimous-consent request was given rather than make the point of order that a quorum was not present on the current day?

The Speaker: The Chair will state that further consideration of certain bills was passed over in accordance with the unaminous-consent request entered into by the House on October 1 and the question of final passage comes up before the House today.

As the Chair has previously stated, if any Member wants a rollcall vote, he can demand a rollcall vote or if he objects to the vote on the ground that a quorum is not present, he can make the point that he objects to the vote on the ground that a quorum is not present.

Mr. Hall: I thank the Speaker. I think it is crystal clear that Members lose the right to object that they had at the time the unanimous-consent request was made.

The Speaker: Every Member has the same right today as they had on the day that the bill originally was being considered.(13)

§ 3.19 Where final action on several bills is put over from one day to the next pursuant to a special

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13. 111 Cong. Rec. 26243, 89th Cong. 1st Sess.

order postponing roll call votes, the further consideration of those measures is the unfinished business on the day when roll calls are again in order; the Chair puts the question on each bill de novo, in the order in which they were considered on the prior day.

On Oct. 7, 1965,(14) the House resumed the consideration of several bills which had been considered on Oct. 5 and 6, pursuant to a special order on Oct. 1 postponing to Oct. 7 any roll call votes, other than on matters of procedure, demanded on Oct. 5 or 6. Speaker John W. McCormack, of Massachusetts, put the question on each such postponed bill de novo, in the order in which the bills had been considered on Oct. 5 and 6. For example, proceedings on the first two of such postponed bills were as follows:

> THE SPEAKER: The unfinished business is further consideration of the veto message from the President of October 4, 1965, on H.R. 5902, an act for the relief of Cecil Graham. Without objection the bill and message will be referred to the Committee on the Judiciary and ordered printed.
>
> There was no objection.
>
> THE SPEAKER: The further unfinished business is the question on suspending the rules and passing the joint resolution (S.J. Res. 106) to allow the showing of the U.S. Information Agency film "John F. Kennedy—Years of Lightning, Day of Drums."
>
> The Clerk read the title of the Senate joint resolution.
>
> The question is: Shall the House suspend the rules and pass Senate Joint Resolution 106?
>
> The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the Senate joint resolution was passed.
>
> A motion to reconsider was laid on the table.

Calendar Wednesday Business as Unfinished Business

§ 3.20 The previous question having been ordered on a bill on Calendar Wednesday, the bill becomes the unfinished business after the reading of the Journal on the next legislative day, or on any day thereafter.

On Apr. 25, 1930,(15) the previous question was ordered on a Calendar Wednesday bill, and then a Member demanded the reading of the engrossed copy, which was not yet prepared. Speaker Nicholas Longworth, of Ohio, answered a parliamentary inquiry on when the bill would come up as unfinished business:

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14. 111 CONG. REC. 26242, 26243, 89th Cong. 1st Sess.

15. 72 CONG. REC. 7774, 71st Cong. 2d Sess.

The Speaker: The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

Mr. [Harold] Knutson [of Minnesota]: Mr. Speaker, I demand the reading of the engrossed bill.

The Speaker: The gentleman from Minnesota demands the reading of the engrossed bill. It is plainly impossible to read the engrossed bill at this time.

Mr. [Bertrand H.] Snell [of New York]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Snell: As I understand the situation, there is a decision by Speaker Gillett that, if the reading of the engrossed copy of the bill at this time is demanded, it will be in order to take this up on the next legislative day.

The Speaker: The Chair would consider it the unfinished business.

Mr. Knutson: Mr. Speaker, I withdraw my demand.

The Speaker: The Clerk will read the bill by title for the third time.

Similarly, Speaker Longworth answered a parliamentary inquiry on May 14, 1930, as to the status of Calendar Wednesday business as unfinished business:

Mr. [Charles R.] Crisp [of Georgia]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Crisp: Mr. Speaker, the previous question having been ordered on the bill and amendments to final passage, if the House adjourns now, ordinarily would not the matter come up the next day, and to-morrow being set apart under special order for memorial exercises, if the House adjourns now, will not this matter, the previous question having been ordered, come up after the reading of the Journal on Friday?

The Speaker: On Friday, to-morrow not being a legislative day. . . .(16)

On Feb. 22, 1950, Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry after the House had ordered the previous question on a Calendar Wednesday bill and after a Member had demanded the reading of the engrossed copy thereof:

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rankin: Mr. Speaker, that means the House will have to stay in session until the engrossed copy is secured?

The Speaker: It does not.

Mr. Rankin: We cannot take a recess on Calendar Wednesday?

The Speaker: The House can adjourn.

Mr. Rankin: We can adjourn but that ends Calendar Wednesday.

The Speaker: The previous question has been ordered and the next time

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16. *Id.* at p. 8964.

the House meets, whether this week or any other week, it is the pending business.

Mr. [William M.] Colmer [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Colmer: Can the Speaker advise us when the engrossed copy will be available and when the vote will be taken?

The Speaker. Not until the gentleman from Massachusetts makes a request about adjournment or offers a motion.

The Chair wants all Members to understand that on the convening of the House at its next session, the final disposition of this matter is the pending business.(17)

§ 3.21 Where the House adjourns after ordering the previous question on a bill and amendments thereto on a Calendar Wednesday, the bill becomes the unfinished business the next day and separate votes may be demanded on amendments the next day.

On May 17, 1939,(18) Speaker William B. Bankhead, of Alabama, answered a parliamentary inquiry on the effect of adjournment on a pending Calendar Wednesday bill with amendments thereto, where the previous question has been ordered:

Mr. [Joseph J.] Mansfield [of Texas]: Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The previous question was ordered.

Mr. [Sam] Rayburn [of Texas]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rayburn: Were the House to adjourn at this time, would the present bill be the pending business tomorrow?

The Speaker: Answering the parliamentary inquiry of the gentleman from Texas, the Chair will state that the previous question having been ordered on the bill and all amendments to final passage, it would be the unfinished and privileged order of business tomorrow morning.

Mr. Rankin: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rankin: Can these individual amendments then be voted on?

The Speaker: A separate vote can be demanded on them when that question is reached.

Conference Reports as Unfinished Business

§ 3.22 Further consideration of a conference report on which the previous question had been ordered was, by unanimous consent, postponed and made the

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(17) 96 Cong. Rec. 2254, 81st Cong. 2d Sess.

(18) 84 Cong. Rec. 5682, 76th Cong. 1st Sess.

unfinished business on the following day.

On Dec. 15, 1970,[19] further consideration of a conference report (H.R. 17867, foreign assistance appropriations) was postponed by unanimous consent after the previous question had been ordered thereon:

MR. [OTTO E.] PASSMAN [of Louisiana]: . . . Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

THE SPEAKER:[20] The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will state that there are five amendments in disagreement.

MR. HALL: I want a vote on the acceptance of the conference report, to which I object violently, and I object to the vote on the ground that a quorum is not present and, I repeat, I make a point of order that a quorum is not present.

THE SPEAKER: The Chair will count. Will the gentleman withhold his point of order?

MR. HALL: No, Mr. Speaker, I will not withhold the point of order. I insist on my point of order. The point of order has been properly made.

THE SPEAKER: Will the gentleman indulge the Chair? There are quite a few Members at the White House, and it would be the purpose of the gentleman from Texas if the gentleman from Missouri will withhold his point of order, to ask that further proceedings on the conference report and the amendments in disagreement be postponed until tomorrow, because there are many Members at the White House with their wives.

MR. HALL: The only question of the gentleman from Missouri is: Why was this not considered before the conference report was called up?

Mr. Speaker, under those circumstances, and with that understanding and for no other purpose, I will yield until the gentleman from Texas makes his request.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that further proceedings on the conference report be postponed until tomorrow and that this be the first order of business on tomorrow. . . .

MR. HALL: . . . Mr. Speaker, I withdraw my reservation of objection. . . .

THE SPEAKER: Accordingly, the matter is postponed until tomorrow, when it will be the first order of business.

On Dec. 16, the following day, the question was put on the conference report as unfinished business following the approval of the Journal and following the receipt of a message from the Senate.[1]

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[19] 116 CONG. REC. 41544, 91st Cong. 2d Sess.

[20] John W. McCormack (Mass.).

Discharged Bills as Unfinished Business

§ 3.23 A bill before the House by way of a motion to discharge, if unfinished before adjournment on the day on which it is called up, remains the unfinished business until fully disposed of and may be called up as unfinished business on any day, not necessarily on the next day.

On Apr. 26, 1948,[2] Mr. Sam Rayburn, of Texas, propounded a parliamentary inquiry to Speaker Joseph W. Martin, Jr., of Massachusetts, on the status of H.R. 2245, to repeal the tax on oleomargarine, which had been brought up on that day by a successful motion to discharge under Rule XXVII clause 4:

> MR. RAYBURN: Since this is the pending business, suppose the gentleman from South Carolina [Mr. Rivers] determines not to move tomorrow that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the pending bill; would that jeopardize his chances of making that motion on Wednesday?

Mr. Earl C. Michener, of Michigan, was heard on the inquiry:

> MR. MICHENER: Mr. Speaker, my only purpose in saying anything now is that we are establishing a precedent here that is most important. I think it is clear that the House can do almost anything by unanimous consent, but I am just as convinced that a special privilege created by a special rule like the discharge rule, is entirely different from a privilege under the general rules attaching, for instance, to appropriation bills. It is my thought that when this discharge rule was written, as amended, the rule was specific in providing that when by discharge petition the ordinary procedure of the House was changed and interfered with, and the House voted to discharge the committee, those in favor of considering the legislation effected by the discharge petition, may immediately—and I stress the word immediately—bring the matter before House, and the House shall immediately proceed to a conclusion of the consideration; and if the conclusion is not reached on the first day, then this legislation shall be the unfinished business until it is completed.
>
> I am wondering whether, as a matter of reason and logic and parliamentary procedure, if other business intervenes, that special discharge rule privilege is not lost. If that were not true, the bill could be put over in the discretion of those who were responsible for the petition and who had changed the rules of the House temporarily. If the bill can be called up Wednesday instead of the following day, as unfinished, then it

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[1] 116 CONG. REC. 41933, 91st Cong. 2d Sess.

[2] 94 CONG. REC. 4877, 4878, 80th Cong. 2d Sess.

can be called up Thursday, or the next Thursday, or the last day before the session ended, and this bill would have a special privilege the rest of the session, conditioned only upon the general rules of the House affecting privileges like those of appropriation bills and bills from the Committee on Ways and Means.

I may say, Mr. Speaker, that my only interest in this matter is as to the precedent.

Speaker Martin then answered the parliamentary inquiry as follows:

The Chair is interested in the valued comments of the distinguished gentleman from Michigan. Of course, the Chair is unaware of the intent or purpose back of the rule when it was first formulated. All he has to guide him is the rule itself as it appears before him in print. The Chair agrees with the gentleman from Michigan that the House can immediately consider the legislation after the motion to discharge the committee is agreed to, but the rule states "and if unfinished before adjournment of the day on which it is called up, it shall remain the unfinished business until it is fully disposed of."

That provision does not state definitely that the bill must come up on the following day, but that it shall remain the unfinished business. The gentleman's point that the bill could be postponed indefinitely of course is correct, in a sense, but after all the rules are based on common sense, and no one would anticipate that the side that procured enough signatures to a discharge petition to bring a bill before the House would filibuster their own bill.

While the rule perhaps is not quite as definite as it might be, it is the opinion of the Chair that the consideration of the bill could go over until Wednesday if the proponents of the bill do not call it up on tomorrow, and that it would be in order on Wednesday as the unfinished business.

The Chair believes that unless the gentleman from South Carolina [Mr. Rivers] or someone on his side of the issue, calls it up on tomorrow, it can be called up on Wednesday and will be the unfinished business on that day. The Chair also wishes to state that he will not recognize anyone on the affirmative side of this matter unless the gentleman from South Carolina is absent. It is not necessary to call it up on tomorrow and it can be called up on Wednesday, at which time it will be the unfinished business.

The Chair will also remind Members that it is always within the control of the majority of the House to determine what should be done.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GROSS: Must it be called up by unanimous consent on Wednesday?

THE SPEAKER: No. It remains the unfinished business and can be called up by the gentleman from South Carolina or someone delegated by his side to do so.

Parliamentarian's Note: Rule

XXVII clause 4 specifically provides that in the event that it is agreed to proceed to the immediate consideration of a bill brought up by way of a motion to discharge, the bill if unfinished before adjournment on the day on which it is called up shall remain the unfinished business until it is fully disposed of.

Unfinished Business Yields to Motion to Discharge

§ 3.24 A motion to discharge a committee, which motion has been on the Discharge Calendar for seven legislative days, is of higher privilege for consideration on the second and fourth Mondays of the month than the unfinished business coming over from a preceding day with the previous question ordered.

On May 8, 1936,(3) Speaker Joseph W. Byrns, of Tennessee, answered a parliamentary inquiry as to the relative precedence of unfinished business on which the previous question had been ordered, and a motion on the Discharge Calendar (which had been on the calendar for seven days) on a day on which motions to discharge were in order:

MR. [WILLIAM B.] BANKHEAD [of Alabama]: Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourns to meet on Monday next.

MR. [GERALD J.] BOILEAU [of Wisconsin]: Mr. Speaker, reserving the right to object, and I shall not object, will the Speaker make the situation clear with reference to the legislative program for Monday?

As I understand it, it will be in order before we complete this bill to take up the question of the discharge of the Rules Committee from further consideration of the Frazier-Lemke bill. I would like to ask the Speaker if my understanding is correct, if consideration of the discharge petition would come up before the vote on this bill?

THE SPEAKER: The Chair thinks it would unless there is a previous understanding. The matter of which shall take precedence can be fixed by consent.

MR. BOILEAU: I appreciate that, Mr. Speaker. Many Members interested in the Frazier-Lemke bill are anxious to know just what the situation is going to be.

MR. [BERTRAND H.] SNELL [of New York]: It would seem to me, if the Speaker will permit, that the vote on the pending bill would be the unfinished business before the House on Monday.

THE SPEAKER: The Chair will state to the gentleman from Wisconsin that, by consent, an agreement can be made whereby the vote on the motion to recommit the pending bill, or a roll call on its passage, can be had first, and

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3. 80 CONG. REC. 7010, 74th Cong. 2d Sess.

then to take up the motion to discharge the committee.[4]

District of Columbia Business as Unfinished Business

§ 3.25 Unfinished business on a District of Columbia Monday does not come up automatically when that class of business is again in order but may be called up by a Member in charge of the legislation.

On May 9, 1932,[5] Speaker John N. Garner, of Texas, answered a parliamentary inquiry on the order of business on District of Columbia Monday:

> MRS. [MARY T.] NORTON [of New Jersey]: Mr. Speaker, I ask unanimous consent to call up concurrent resolution (S. Con. Res. 27), and yield five minutes to the gentleman from Ohio, Mr. Harlan, to offer an amendment thereto.
>
> MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. STAFFORD: Mr. Speaker, on the last day given over to District business, House Joint Resolution 154, providing for a merger of the street-railway systems in the District of Columbia, was the unfinished business. As this joint resolution was the unfinished business when the District Committee last had the call, is it not the unfinished business when the House resumes consideration of District business?
>
> THE SPEAKER: The Chair thinks not, because a motion to consider it is necessary. Wherever a motion is required, the unfinished business has no precedence over any other business.

§ 3.26 Business unfinished on District of Columbia Day does not come up until the next day on which that business is in order.

On June 26, 1939,[6] the Committee of the Whole was considering District of Columbia business brought up on District of Columbia Day. Chairman Fritz G. Lanham, of Texas, answered a parliamentary inquiry as to the effect on the pending bill should the Committee rise without completing the bill on that day:

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[4] While the 21-day discharge rule was in effect, the House in one instance adjourned before completing consideration of a resolution taken from the Committee on Rules under the 21-day rule, thus causing the matter to go over to another second or fourth Monday as unfinished business under that rule. 95 CONG. REC. 14161, 14169, 81st Cong. 1st Sess., Oct. 10, 1949.

[5] 75 CONG. REC. 9836, 72d Cong. 1st Sess.

[6] 84 CONG. REC. 7927, 7928, 76th Cong. 1st Sess.

Mr. [Walter G.] Andrews [of New York]: Mr. Chairman, I move that the Committee do now rise.

Mr. [Kent E.] Keller [of Illinois]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Keller: Mr. Chairman, what would be the effect on this bill if we should vote to rise?

The Chairman: It would be the unfinished business of the Committee on the District of Columbia on the next day that committee is called.

Mr. Keller: What day would that be?

The Chairman: The second and fourth Monday of each month are District days.

Mr. Keller: If we want present consideration of this bill we will have to vote against the motion?

The Chairman: I think the membership is sufficiently informed with reference to the motion. The question is on the motion to rise.

Messages as Unfinished Business

§ 3.27 The reception of a Presidential message being a matter of high privilege in the House, the Speaker pro tempore indicated in response to a parliamentary inquiry that where such a message is received it is laid before the House as soon as business permits, and that the precedents do not justify its being held at the desk until another legislative day.

On June 24, 1968,(7) following the legislative business for the day, a message from the President was received and laid before the House by Speaker pro tempore Carl Albert, of Oklahoma. The Speaker pro tempore responded to a parliamentary inquiry as to whether the message could be laid down on the following legislative day:

The Speaker Pro Tempore: The Chair lays before the House a message from the President of the United States.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Hall: Mr. Speaker, in the opinion of the Chair is it necessary that a Presidential message when delivered in writing be presented to the Members of the House immediately or could it be held until the next legislative day?

The Speaker Pro Tempore: The Chair will advise the distinguished gentleman that when the House is in session, a message from the President is laid before the House.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry, is this done by tradition, at the will of the Chair, or is it supported by a rule of the House?

The Speaker Pro Tempore: It is supported by the custom of the House and the provisions of the constitution.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry.

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(7) 114 Cong. Rec. 18330, 18331, 90th Cong. 2d Sess.

Could the Chair advise the Members of the House as to the subject of this particular message, arriving at 4:45 in the evening?

The Speaker Pro Tempore: It relates to the matter of firearms legislation.

Mr. Hall: Mr. Speaker, in my opinion the Members of the House should hear anything that is this important and I make a point of order that a quorum is not present.

The Speaker Pro Tempore: Evidently, a quorum is not present.

Mr. [Spark M.] Matsunaga [of Hawaii]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

A quorum responded to the call of the House, and the message was then laid before the House and read by the Clerk.

§ 3.28 Where messages from the Senate and the President were received during a call of the House, and the House adjourned when a quorum failed to appear on the call, the messages were held at the Speaker's table until it next convened.

On Oct. 11, 1968,(8) a message from the Senate and a message from the President were received while a call of the House was in progress. A quorum having failed to appear, the House adjourned. The messages were held at the Speaker's table until the House next convened on the following day and were then laid before the House.(9)

Motions to Suspend the Rules as Unfinished Business

§ 3.29 Pursuant to a special order postponing roll calls until the following Thursday, consideration of the vote on a bill called up under suspension of the rules was postponed and made the unfinished business on the day when roll calls would again be in order.

On Oct. 5, 1965,(10) Mr. Clement J. Zablocki, of Wisconsin, moved to suspend the rules and pass a bill; when Speaker John W. McCormack, of Massachusetts, put the question on the motion, Mr. H. R. Gross, of Iowa, objected to the vote on the ground that a quorum was not

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8. 114 Cong. Rec. 30816, 30817, 90th Cong. 2d Sess.

9. 114 Cong. Rec. 31116, 31117, 90th Cong. 2d Sess., Oct. 12, 1968. See also § 3.6, supra.

For the proposition that messages from the President or Senate may be received during a call of the House, see *House Rules and Manual* § 562 (1979).

10. 111 Cong. Rec. 25941–44, 89th Cong. 1st Sess.

present. The Speaker then stated as follows:

> Pursuant to the order of the House of October 1, further proceedings on the Senate joint resolution will go over until Thursday, October 7.

The postponement of the vote on the motion to suspend the rules was carried as follows in the House Journal:

> On a division, demanded by Mr. Gross, there appeared—yeas 55, nays 12.
>
> Mr. Gross objected to the vote on the ground that a quorum was not present and not voting and made the point of order that a quorum was not present.
>
> Pursuant to the unanimous-consent agreement of October 1, 1965, further consideration of the motion to suspend the rules and pass the joint resolution of the Senate, S.J. Res. 106 was postponed until Thursday, October 7, 1965.
>
> Mr. Gross then withdrew his point of no quorum.(11)

Parliamentarian's Note: On Oct. 1, the House had agreed to a unanimous-consent request that all roll call votes, other than on matters of procedure, which might be ordered on Oct. 5 or 6, be put over until Oct. 7.(12)

§ 3.30 A motion to suspend the rules which remains undisposed of at adjournment (after the conclusion of debate on one suspension day), goes over as unfinished business to the next suspension day.

On Aug. 5, 1935,(13) Speaker Joseph W. Byrns, of Tennessee, announced, on a suspension day, the order of business as to an unfinished motion to suspend the rules coming over from a previous suspension day:

> The Speaker: When the House adjourned on the last suspension day there was under consideration the bill (S. 2865) to amend the joint resolution establishing the George Rogers Clark Sesquicentennial Commission, approved May 23, 1928. The question is on the motion to suspend the rules and pass the bill. This motion is, therefore, the unfinished business, as the Chair understands debate was concluded on the measure.

§ 3.31 A motion to suspend the rules on which a second had been ordered, remaining undisposed of at adjournment was, on the next day when such motion was again in order, withdrawn by unanimous consent.

On May 5, 1958,(14) which was

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11. H. Jour. 1256, 1257, 89th Cong. 1st Sess., Oct. 5, 1965.
12. 111 Cong. Rec. 25796, 25797, 89th Cong. 1st Sess.
13. 79 Cong. Rec. 12506, 74th Cong. 1st Sess.
14. 104 Cong. Rec. 8004, 85th Cong. 2d Sess.

a day when motions to suspend the rules were in order, Mr. Oren Harris, of Arkansas, asked unanimous consent to vacate the proceedings under suspension of the rules held two weeks prior on H.R. 11414, to amend the Public Health Service Act. (On the prior occasion, a second had been ordered on the bill but the House had adjourned before completing its consideration.) The unanimous-consent request was agreed to, and Mr. Harris moved to suspend the rules and pass the same bill with amendments.

Reading Engrossed Copy of Bill as Unfinished Business

§ 3.32 Where the reading of the engrossed copy of a bill was demanded under prior practice, the bill was laid aside until the engrossed copy could be provided.

On June 17, 1948,(15) a bill was ordered to be engrossed and read a third time. A Member demanded the reading of the engrossed copy, and Speaker Joseph W. Martin, Jr., of Massachusetts, responded, "The bill will have to be laid aside until the engrossed copy can be provided."

On May 3, 1949,(16) Mr. Vito Marcantonio, of New York, demanded the reading of the engrossed copy of a bill. Speaker Sam Rayburn, of Texas, allowed the bill to go over as unfinished business, stating that "The Chair thinks it would not be practicable to wait for that this evening."

Parliamentarian's Note: This precedent and the following ones, relating to the reading of the engrossed copy of a bill as unfinished business, predate the 1965 amendments deleting from the rules of the House the provision in Rule XXI allowing any Member to demand the reading in full of the engrossed copy of a bill.

§ 3.33 A Member who had demanded the reading of the engrossed copy of a bill (under the prior practice) withdrew the demand the next day before the reading of the engrossed copy as unfinished business.

On June 18, 1948,(17) Speaker Joseph W. Martin, Jr., of Massachusetts, announced that the unfinished business was the reading of the engrossed copy of a bill, the demand for the reading having been made on the previous day and before the engrossed copy was prepared. Mr. Vito Marcantonio, of New York, who had demanded the reading of the engrossed copy on the previous day, withdrew his demand and the bill was read the third time by title.

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(15) 94 Cong. Rec. 8713, 80th Cong. 2d Sess.

(16) 95 Cong. Rec. 5544, 81st Cong. 1st Sess.

(17) 94 Cong. Rec. 8828, 80th Cong. 2d Sess.

§ 3.34 Under prior practice, if the House adjourned after a demand for the reading of an engrossed copy of a bill but before such reading, the bill became the unfinished business of the House.

On Feb. 6, 1946,(18) Speaker Sam Rayburn, of Texas, put the question on the engrossment and third reading of the pending bill, H.R. 4908, to investigate labor disputes. Mr. Clare E. Hoffman, of Michigan, demanded the reading of the engrossed copy, which was not yet available. The Speaker indicated that pursuant to the demand for the reading, a final vote could not be had until the engrossed copy was available. The Speaker answered a parliamentary inquiry propounded by Mr. Jennings Randolph, of West Virginia:

Mr. Randolph: Mr. Speaker, I do not want to propound a parliamentary inquiry which would not go to the direct point at issue, but I would like to know approximately the time we might expect the engrossed copy.

The Speaker: The Chair has an opinion that in all probability it could not be here before midnight.

Mr. Randolph: Mr. Speaker, assuming the engrossed copy is here tomorrow, will the first order of business, on reconvening, be the vote on the bill?

The Speaker: It is the unfinished business.

On Aug. 22, 1963, following the demand for the reading of the engrossed copy of a bill but before the engrossed copy was prepared, Speaker John W. McCormack, of Massachusetts, stated that the vote on the bill would "come up on the next legislative day after the bill is engrossed."(19)

Private Business as Unfinished Business

§ 3.35 When the House adjourns before completing action upon an omnibus private bill, such bill goes over as unfinished business until that class of business is again in order under the rule.

On Mar. 17, 1936,(20) Speaker pro tempore Edward T. Taylor, of

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18. 92 Cong. Rec. 1027-29, 79th Cong. 2d Sess.

19. 109 Cong. Rec. 15624, 15625, 88th Cong. 1st Sess.

20. 80 Cong. Rec. 3901, 74th Cong. 2d Sess.

Colorado, answered a parliamentary inquiry on the effect of adjournment on a pending omnibus private bill:

MR. [JOHN M.] COSTELLO [of California]: Mr. Speaker, I move that the House do now adjourn.

MR. [FRED] BIERMANN [of Iowa]: Pending that, what will be the status of this omnibus bill?

THE SPEAKER PRO TEMPORE: This bill will be the unfinished business the next time this calendar is called.

MR. BIERMANN: And that will be a month from today?

THE SPEAKER PRO TEMPORE: Whenever the date is.

The question is on the motion of the gentleman from California that the House do now adjourn.(1)

Veto Messages as Unfinished Business

§ 3.36 Pursuant to a special order postponing roll calls until the following Thursday, consideration of a veto message was made the unfinished business on a day when roll calls would again be in order (objection having been raised to a unanimous-consent request that the veto message be referred to committee).

On Oct. 5, 1965,(2) a veto message from the President was laid before the House by Speaker pro tempore Carl Albert, of Oklahoma, and read by the Clerk. The Speaker pro tempore immediately stated that if there was no objection, the message would be referred to the Committee on the Judiciary and ordered printed, but Mr. H. R. Gross, of Iowa, objected to such disposition of the message. The Speaker pro tempore therefore stated that pursuant to the order of the House on Oct. 1, the veto message would be the pending business on Thursday, Oct. 7.

Parliamentarian's Note: On Oct. 1, 1965, the House had agreed to a unanimous-consent request, propounded by Mr. Albert and due to religious holidays on Oct. 5 and 6, that any roll call votes, other than on questions of procedure, which might be demanded on Oct. 5 or 6, be put over until Oct. 7.(3) Consideration of the message was postponed in anticipation that any disposition would generate a roll call.

§ 3.37 The Speaker made a statement as to the order of business where a veto postponed to a day certain was the unfinished business.

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1. See *House Rules and Manual* § 888 (1979) for resumption of unfinished business in periods set apart for certain classes of business.
2. 111 CONG. REC. 25940, 25941, 89th Cong. 1st Sess.
3. *Id.* at pp. 25796, 25797.

On Apr. 14, 1948, Speaker Joseph W. Martin, Jr., of Massachusetts, made the following statement on the order of business, a veto message having been postponed to that day:(4)

> The Chair wishes to state the order of business.
>
> The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and the Internal Revenue Code.
>
> Following that, under a special order Jefferson's First Inaugural Address will be read. Following that, the Chair will recognize Members to submit consent requests to extend remarks and to address the House for 1 minute.

Parliamentarian's Note: Consideration of a veto message on the day to which it has been postponed is highly privileged and becomes the unfinished business following the approval of the Journal.(5)

§ 3.38 Where a veto message postponed to a day certain is announced as the unfinished business, no motion is required from the floor for consideration of such veto, and the question, "Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding" is pending.

On Jan. 28, 1970, Speaker John W. McCormack, of Massachusetts, put the following question, following the approval of the Journal and a call of the House, on a veto message postponed to that day by motion on Jan. 27:

> The Speaker: The unfinished business is: Will the House, on reconsideration, pass the bill, H.R. 13111, an act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1970, and for other purposes, the objections of the President to the contrary notwithstanding?
>
> The Chair recognizes the gentleman from Texas (Mr. Mahon) for 1 hour.(6)

Withdrawal of Unfinished Business

§ 3.39 On one occasion the Speaker, having recognized one Member to propound a parliamentary inquiry regarding the status of a resolution as "unfinished business," then recognized another Member to

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4. 94 Cong. Rec. 4427, 80th Cong. 2d Sess.

5. See 94 Cong. Rec. 4427, 80th Cong. 2d Sess., Apr. 14, 1948; 116 Cong. Rec. 1483, 91st Cong. 2d Sess. Jan. 28, 1970; and 119 Cong. Rec. 36202, 93d Cong. 1st Sess., Nov. 7, 1973.

6. 116 Cong. Rec. 1483, 91st Cong. 2d Sess.

withdraw the resolution, thus eliminating the reason for the inquiry.

On Apr. 8, 1964, a demand was made for the reading of the engrossed copy of a bill where the engrossment was not yet prepared. The bill was laid aside and the House proceeded to consider a resolution (concurring in Senate amendments to a House bill). Prior to the disposition of the resolution, Speaker John W. McCormack, of Massachusetts, declared a recess pursuant to authority previously granted.

At the conclusion of the recess, the Speaker stated the unfinished business to be the reading of the engrossed copy of the bill on which the demand had been made. The following inquiry and its disposition then ensued:[7]

THE SPEAKER: The unfinished business is the reading of the engrossed copy of H.R. 10222.

The Clerk will read the engrossed copy.

MR. OLIVER P. BOLTON [of Ohio]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. OLIVER P. BOLTON: Mr. Speaker, when the recess was called, it is my understanding that we were engaged in the consideration of what is referred to as a cotton and wheat bill. Is it not the rule of the House that we must finish the consideration of that measure before we take up any other measure which has been passed over for parliamentary and mechanical reasons?

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker——

THE SPEAKER: The gentleman from Missouri [Mr. Bolling].

MR. BOLLING: Mr. Speaker, under the rules I withdraw House Resolution 665.

MR. OLIVER P. BOLTON: Mr. Speaker, a parliamentary inquiry.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, that takes unanimous consent, and I object.

THE SPEAKER: The Chair will state that it does not take unanimous consent to withdraw the resolution in the House.

MR. OLIVER P. BOLTON: Mr. Speaker, it is my understanding that the Speaker was addressing the Member now addressing the Chair and had not given an answer to my question. Therefore, the recognition of the Member from the other side, the gentleman from Missouri [Mr. Bolling] was out of order. Am I incorrect?

THE SPEAKER: The recognition of the gentleman from Missouri [Mr. Bolling] terminated the parliamentary inquiry.

MR. OLIVER P. BOLTON: In other words, the Speaker did not answer the parliamentary inquiry; is that correct?

THE SPEAKER: Since the resolution was withdrawn, the parliamentary inquiry was ended.

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[7] 110 CONG. REC. 7302-04, 88th Cong. 2d Sess.

Mr. Oliver P. Bolton: If the Speaker will respectfully permit, the gentleman from Ohio would suggest that the question had been asked before the resolution had been withdrawn.

The Speaker: The Chair will state that the Chair has the power of recognition. Now that the resolution has been withdrawn, the unfinished business is the reading of the engrossed copy of H.R. 10222.

Mr. Oliver P. Bolton: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Oliver P. Bolton: The Speaker had recognized the gentleman from Ohio for a parliamentary inquiry. The parliamentary inquiry had been made. The parliamentary inquiry had not been answered and yet the Chair recognized the gentleman from Missouri.

The Speaker: Which the Chair has the power to do.

The Clerk will read the engrossed copy of H.R. 10222. . . .

Mr. Oliver P. Bolton: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Oliver P. Bolton: Mr. Speaker, may I inquire whether the parliamentary inquiry which I addressed to the Chair is now not to be answered, because of the action of the gentleman from Missouri?

The Speaker: The gentleman will repeat his parliamentary inquiry.

Mr. Oliver P. Bolton: Mr. Speaker, my parliamentary inquiry was to the effect that inasmuch as the House was engaged at the business before it at the time the Speaker called the recess, whether the rules of the House did not call for the conclusion of that business before other business which had been postponed by the House under the rules of the House and in accordance with the procedures of the House did not have to follow consideration of any business that was before the House at the time of the calling of the recess?

The Speaker: The Chair will state that the gentleman from Missouri withdrew his resolution. If he had not withdrawn the resolution the situation might have been different.

The Chair has made a ruling that the unfinished business is the reading of the engrossed copy of H.R. 10222. That is the unfinished business.

§ 3.40 Where a Member has obtained unanimous consent for the consideration of a bill in the House, he may withdraw such request before the bill has been amended, even though an amendment is pending, and, if withdrawn, the bill does not become the unfinished business of the House.

On May 16, 1938,(8) a bill was called up on the Consent Calender. Speaker William B. Bankhead, of Alabama, answered a parliamentary inquiry as to the status of the bill

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8. 83 Cong. Rec. 6927, 75th Cong. 3d Sess.

and as to whether it was unfinished business:

Mr. [August H.] Andresen of Minnesota: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Andresen of Minnesota: On Tuesday last this bill was brought up under unanimous consent. The bill was read. No objection was raised to the consideration of the bill. The bill was read as amended by the Committee on Agriculture. Debate was had upon it and I offered an amendment at the conclusion of the reading of the bill. Debate was had upon my amendment. The chairman of the Committee on Agriculture, the gentleman from Texas [Mr. Jones] stated at the conclusion of the debate upon my amendment:

> I would much rather withdraw the request, and I will notify the gentleman before it is called up.

He further said:

> Mr. Speaker, I withdraw the request.

But the Record does not show that the gentleman from Texas asked unanimous consent to withdraw the bill from further consideration of the House. My parliamentary inquiry is as to whether or not the bill is now the unfinished business on the Speaker's desk and requires no further action here as far as objection is concerned and that it comes up automatically.

The Speaker: In reply to the parliamentary inquiry of the gentleman from Minnesota [Mr. Andresen], it is the recollection of the Chair that the gentleman from Texas [Mr. Jones] asked unanimous consent for the consideration of the bill and that the gentleman from Minnesota did offer an amendment and debated it, whereupon the gentleman from Texas rose in his place and said that rather than have the matter pressed to an issue on the amendment which the gentleman from Minnesota proposed, he would prefer to withdraw his request for consideration of the bill. The amendment was not acted upon by the House. The Chair is of opinion that under rule XVI, section 2, the gentleman from Texas [Mr. Jones] could withdraw the consideration of the bill without unanimous consent. The Chair, therefore, is of opinion that the matter is not unfinished business on the Speaker's desk.

Mr. [Fred C.] Gilchrist [of Iowa]: Mr. Speaker, I ask unanimous consent that the bill go over without prejudice.

The Speaker: Is there objection?

There was no objection.

Unfinished Business Not Affected by Adjournment Between Sessions

§ 3.41 The enactment of a law changing the date of meeting of the second session of a Congress does not affect the status of discharge motions on the desk or of other legislative matters pending at the end of the first session.

On Dec. 19, 1945,(9) Mr. John W. McCormack, of Massachusetts, of-

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9. 91 Cong. Rec. 12346, 79th Cong. 1st Sess.

fered a privileged resolution changing the meeting date of the second session of the 79th Congress to Jan. 14, 1946, rather than Jan. 3, 1946. Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry as to the effect of the resolution on a discharge petition or other legislative matters pending in the first session:

> MR. [JOHN H.] FOLGER [of North Carolina]: I have a discharge petition on the desk, No. 10, in which I am very, very much interested. I have no objection to this adjournment until the 14th unless I have to go back and get that signed anew. Will that carry over?
>
> THE SPEAKER: It will carry over.
>
> MR. FOLGER: If it will I am all right.
>
> THE SPEAKER: Everything remains on the calendar just as it is now.

Parliamentarian's Note: Rule XXVI, *House Rules and Manual* § 901 (1979), entitled "Unfinished Business of the Session," provides that business before committees continues from session to session; under the practice of the House that rule applies to business pending before the House as well as before committees.

§ 4. Calendar Wednesday; Morning Hour Call of Committees

Rule XXIV provides for two distinct calls of standing or select committees for the consideration of reported bills—the morning hour call of committees and the call of committees on Calendar Wednesday.

Clause 1 of the rule indicates the place of the morning hour call in the order of business;(10) clause 4(11) governs the actual procedure for the morning hour call:

> After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order, and then select committees, and each committee when named may call up for consideration any bill reported by it on a previous day and on the House Calendar, and if the Speaker shall not complete the call of the Committees before the House passes to other business, he shall resume the next call where he left off, giving preference to the last bill under consideration: *Provided,* That whenever any committee shall have occupied the morning hour on two days, it shall not be in order to call up any other bill until the other committees have been called in their turn.

The morning hour call of committees is largely obsolete as a method for gaining consideration of reported bills; the procedure was last used in 1933.(12)

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10. *House Rules and Manual* § 878 (1979).
11. *House Rules and Manual* § 889 (1979).
12. See § 4.2, infra.

Rule XXIV clause 7[13] provides for the Calendar Wednesday call of committees and for a motion to dispense with such proceedings:

> On Wednesday of each week no business shall be in order except as provided by clause 4 of this rule unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine. On such a motion there may be debate not to exceed five minutes for and against. On a call of committees under this rule bills may be called up from either the House or the Union Calendar, excepting bills which are privileged under the rules; but bills called up from the Union Calendar shall be considered in Committee of the Whole House on the State of the Union. This rule shall not apply during the last 2 weeks of the session. It shall not be in order for the Speaker to entertain a motion for a recess on any Wednesday except during the last 2 weeks of the session: *Provided*, That no more than 2 hours of general debate shall be permitted on any measure called up on Calendar Wednesday, and all debate must be confined to the subject matter of the bill, the time to be equally divided between those for and against the bill: *Provided further*, That whenever any committee shall have occupied one Wednesday it shall not be in order, unless the House by a two-thirds vote shall otherwise determine, to consider any unfinished business previously called up by such committee, unless the previous question had been ordered thereon, upon any succeeding Wednesday until the other committees have been called in their turn under this rule; *Provided*, That when, during any one session of Congress, all of the committees of the House are not called under the Calendar Wednesday rule, at the next session of Congress the call shall commence where it left off at the end of the preceding session.

The Calendar Wednesday procedure has been little utilized in recent years due to its cumbersome operation and to the fact that nonprivileged bills may be considered pursuant to a special order from the Committee on Rules, under suspension of the rules, or by unanimous consent.[14] But the refusal of the House to consider a bill under the Calendar Wednesday procedure does not preclude the bill's being brought up under another procedure, such as pursuant to a rule from the Committee on Rules.[15]

The call of committees on Calendar Wednesday applies only to nonprivileged public bills, and when a bill otherwise unprivileged is given a privileged status by unanimous-consent agreement or special order, it is automatically rendered ineligible for consideration under the Calendar Wednesday procedure.(16)

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[13] *House Rules and Manual* § 897 (1979).

[14] The Calendar Wednesday procedure was last used in the 87th Congress, when the House refused to consider a bill called up under the rule (see § 4.18, infra).

[15] See § 4.19, infra.

If Calendar Wednesday business has not been dispensed with, such business is highly privileged on Wednesdays, and takes precedence over other business privileged under the rules; however, questions involving the privileges of the House and veto messages privileged under the Constitution take precedence over Calendar Wednesday business.(17) The call of committees follows routine unanimous-consent requests and one-minute speeches, but the Speaker may decline to recognize any such requests on Calendar Wednesday.(18)

As indicated by Rule XXIV clauses 4 and 7, the standing committees are called in regular alphabetical order, and then the select committees (with legislative jurisdiction), and the call begins in a new session (but not a new Congress) where it left off in the prior session.(19) A bill unfinished on Calendar Wednesday goes over to the next Wednesday where the same committee has the call unless the previous question has been ordered, in which case the bill becomes the unfinished business on the next legislative day.(20)

Calendar Wednesday business is usually dispensed with by unanimous consent, pursuant to a request made by the Majority Leader during the previous week.(1) If the request is objected to, Rule XXIV clause 7 provides for a highly privileged motion to dispense with such business, which motion requires a two-thirds vote and is debatable for 10 minutes, equally divided.(2)

Dispensing with Calendar Wednesday business by less than a two-thirds vote (in the absence of unanimous consent) is one of the specified kinds of orders not permitted to be reported by the Committee on Rules, under Rule XI.(3)

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16. See 7 Cannon's Precedents §§ 932–935. See also § 4.10, infra, for the principle that the rule may not be used for the consideration of private bills.

17. See §§ 4.3–4.8, infra. Where the Calendar Wednesday call of committees is concluded, business otherwise in order may be called up. See 7 Cannon's Precedents § 921.

18. See §§ 4.21–4.23, infra.

19. See § 4.11, infra.

20. See §§ 4.27–4.29, infra.

1. See §§ 4.40–4.42, infra.

2. See §§ 4.30–4.39, infra. The motion was made in the 93d Congress when a unanimous-consent request was objected to (see § 4.33, infra).

3. *House Rules and Manual* § 729(a) (1979).

Morning Hour Call of Committees

§ 4.1 Where a motion that the House take a recess was defeated on the last day of the session, the Chair directed the Clerk to call the committees under the morning hour rule (Rule XXIV clause 4).

On Mar. 3, 1931,(4) which was the last day of the third session of the 71st Congress, the House rejected a motion that the House recess (there was being awaited a report of a committee of conference). Speaker Nicholas Longworth, of Ohio, directed the call of committees under the morning hour rule and the place of that largely obsolete procedure in the order of business was discussed:

THE SPEAKER: This is the morning hour, and the Clerk will call the committees.

The Clerk began the call of committees.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, a parliamentary inquiry. The House has refused to recess, and that leaves us in the same position as we were in the Sixty-first Congress. I know the Speaker remembers that Uncle Joe Cannon said that a majority can do anything it desires. Is it not within the power of the House now to instruct the conferees to agree to the Senate amendment on the hospitalization bill, provided the Speaker will recognize anyone to make that motion?

THE SPEAKER: That is not in the power of the House.

MR. SABATH: Does the Chair rule that we can not instruct the conferees?

THE SPEAKER: The Chair so rules. . . .

MR. [SAM] RAYBURN [of Texas]: A parliamentary inquiry, Mr. Speaker, the House has not adjourned or recessed from Tuesday. We are still in the legislative day of Tuesday.

MR. [FIORELLO H.] LAGUARDIA [of New York]: Mr. Speaker, I ask unanimous consent to address the House for five minutes.

THE SPEAKER: The gentleman from New York asks unanimous consent to address the House for five minutes. Is there objection?

MR. RAYBURN: Mr. Speaker, a parliamentary inquiry. I made a parliamentary inquiry that has not been answered. The House has been legislating in Tuesday and it has not adjourned or recessed. It is still in Tuesday. There is no Wednesday and therefore how can the call of the committees be made?

THE SPEAKER: This is the legislative day of Tuesday. We have been transacting business according to the rules. First, we had prayer by the Chaplain on Tuesday. Second, we had the reading and approving of the Journal. Third, we have had the reference of public bills—that has been passed over. Next, we have disposed of business on the Speaker's table, and next we have disposed of many public bills. Now is the morning hour for the consideration of bills called up by committees.

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4. 74 CONG. REC. 7242–44, 71st Cong. 3d Sess.

MR. RAYBURN: Does the Chair hold that this is Tuesday or Wednesday?

THE SPEAKER: The legislative day of Tuesday. . . .

MR. [CHARLES R.] CRISP [of Georgia]: Mr. Speaker and my colleagues, the Speaker correctly ruled tonight when he directed the Clerk to call the committees under the morning hour. That is in the rule book. It is obsolete as far as the practical consideration of measures under the rules of the House is concerned. This is the first time the Speaker has called that since he has been Speaker; but he was correct. Under the rules, it was in order.

§ 4.2 The Speaker directed the Clerk to call the committees under the morning hour rule and indicated that a Member calling up a bill under the morning hour must be authorized by the committee to do so.

On June 12, 1933,[5] the morning hour call of committees was conducted as follows:

MR. [WILLIAM P.] CONNERY [Jr., of Massachusetts]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[6] The gentleman will state it.

MR. CONNERY: What is the regular order at this time, Mr. Speaker?

THE SPEAKER: The calling of the committees.

The Chair notes the time is now 3:33 o'clock p.m. The Clerk will call the committees.

MR. [ADOLPH J.] SABATH [of Illinois] (when Committee on Elections No. 2 was called): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SABATH: Mr. Speaker, as I understand, there are several contests pending before the Committee on Elections No. 2. I wonder whether the chairman or some other member of the committee is present and can give the House some information relative to these contests.

THE SPEAKER: There has been nothing reported by the committee.

MR. CONNERY: Regular order, Mr. Speaker.

THE SPEAKER: The Clerk will call the next committee.

MR. [GORDON] BROWNING [of Tennessee] (when the Committee on the Judiciary was called): Mr. Speaker, by direction of the Committee on the Judiciary, I call up the bill (H.R. 5909) to transfer Bedford County from the Nashville division to the Winchester division of the middle Tennessee judicial district.

MR. [EDWARD W.] GOSS [of Connecticut]: Mr. Speaker, I reserve a point of order. Did I understand the gentleman to say he is directed by the committee to call this up?

MR. BROWNING: Yes.

The Clerk read the bill, as follows:

Be it enacted, etc., That Bedford County of the Nashville division of the middle district of the State of Tennessee is hereby detached from

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5. 77 CONG. REC. 5816, 73d Cong. 1st Sess.

6. Henry T. Rainey (Ill.).

the Nashville division and attached to and made a part of the Winchester division of the middle district of such State.

The Speaker: The gentleman from Tennessee [Mr. Browning] is recognized for 1 hour. . . .

Mr. Goss: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Goss: Do I understand this time is alloted for general debate, or is the debate confined to the bill, under the rule?

The Speaker: In the House debate must be confined to the bill under consideration.

After debate, the House passed the bill and then adjourned without further business.

Precedence of Calendar Wednesday Business

§ 4.3 The call of committees on Calendar Wednesday takes precedence of consideration of privileged business reported by the Committee on Accounts.

On June 5, 1946,(7) Speaker Sam Rayburn, of Texas, sustained a point of order as to the order of business:

Mr. [Frank W.] Boykin [of Alabama]: Mr. Speaker, by direction of the Committee on Accounts, I offer a resolution and ask for its immediate consideration.

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Marcantonio: This is Calendar Wednesday, Mr. Speaker. I submit that the only business before the House that may be considered is the call of committees.

The Speaker: The point of order is sustained.(8)

§ 4.4 A subpena duces tecum served upon the Clerk of the House and transmitted by the Clerk to the Speaker was held to be a matter of the highest privilege and to supersede the continuation of the call of committees under the Calendar Wednesday rule.

On Feb. 8, 1950,(9) Speaker Sam Rayburn, of Texas, overruled a point of order against the consideration of highly privileged business on Calendar Wednesday:

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Marcantonio: Mr. Speaker, this is Calendar Wednesday, and I ask

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7. 92 Cong. Rec. 6351, 79th Cong. 2d Sess.

8. The former Committee on Accounts was merged into the Committee on House Administration by the Legislative Reorganization Act of 1946.

9. 96 Cong. Rec. 1695, 81st Cong. 2d Sess.

that the business of Calendar Wednesday proceed. I submit that the regular order is the continuation of the call of committees by the Clerk.

THE SPEAKER: The Chair at this time is going to lay before the House a matter of highest privilege.

The Speaker laid before the House a communication from the Clerk transmitting a subpena issued to him by a federal district court and directing the production of committee executive session material. There was offered and adopted a resolution in response to the subpena.

§ 4.5 A privileged report of the Committee on Un-American Activities dealing with the contempt of a witness was considered on a Calendar Wednesday.

On June 26, 1946,[10] which was Calendar Wednesday under the rule, Mr. John S. Wood, of Georgia, called up a privileged report from the Committee on Un-American Activities, dealing with the contempt of a witness before the committee.

The report and accompanying resolution were considered as a privileged matter and were not called up under the Calendar Wednesday procedure. Although the House had not dispensed with Calendar Wednesday business on that day, the House did not consider such business, adjourning after disposition of the report from the Committee on Un-American Activities.

§ 4.6 The consideration of a veto message is in order on Calendar Wednesday.

On May 11, 1932,[11] the House agreed to the motion to dispense with Calendar Wednesday business on that day, a veto message having been laid before the House. Speaker John N. Garner, of Texas, indicated that the motion was not necessary, due to the constitutional privilege of a veto message:

THE SPEAKER: The Chair lays before the House the following message from the President of the United States.

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, this being Calendar Wednesday, ought not further business be dispensed with before we consider any other business?

THE SPEAKER: Not necessarily.

MR. STAFFORD: This is holy Wednesday.

MR. [CHARLES R.] CRISP [of Georgia]: Is there any other business under Calendar Wednesday?

MR. STAFFORD. No.

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[10] 92 CONG. REC. 7589–91, 79th Cong. 2d Sess.

[11] 75 CONG. REC. 10035–40, 72d Cong. 1st Sess.

MR. CRISP: Mr. Speaker, to save any question, I move that further business under Calendar Wednesday be dispensed with.

The motion was agreed to.

THE SPEAKER: Let the Chair say, however, in connection with this Calendar Wednesday rule, that it does not suspend the Constitution of the United States, which provides that a veto message of the President shall have immediate consideration. The Clerk will read the message.

§ 4.7 The Speaker held that special orders from the Committee on Rules were not privileged for consideration on Calendar Wednesday.

On Aug. 21, 1935,(12) which was Calendar Wednesday under Rule XXIV clause 7, there was called up a resolution from the Committee on Rules, giving privilege to a motion to recess and waiving the two-thirds voting requirement for consideration of certain reports from the Committee on Rules. Mr. Bertrand H. Snell, of New York, objected that the resolution was not privileged on Calendar Wednesday and Speaker Joseph W. Byrns, of Tennessee, sustained the objection.

§ 4.8 If the House dispenses with Calendar Wednesday business it can consider what it pleases on that day.

On June 5, 1946,(13) Speaker Sam Rayburn, of Texas, responded to an inquiry on the effect of dispensing with Calendar Wednesday business:

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: My inquiry is this: In the event that the House were to agree to dispense with further proceedings under Calendar Wednesday, would it then be in order for the remainder of the day for the other business on the House program for the week and especially the river and harbor bill, which was under consideration when the House adjourned yesterday afternoon to be taken up immediately if so desired by the leadership, including the Speaker and the chairmen of the committees concerned?

THE SPEAKER: If the House dispenses with further proceedings under Calendar Wednesday, then the House can do what it pleases.

Calendar Wednesday Bills Generally

§ 4.9 A motion that a Union Calendar bill be considered in the House as in the Committee of the Whole is not in order, and if unanimous consent is not granted for this purpose, the House automatically resolves itself into the Committee of the Whole on Calendar Wednesday.

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(12) 79 CONG. REC. 14038, 14039, 74th Cong. 1st Sess.

(13) 92 CONG. REC. 6357, 79th Cong. 2d Sess.

On July 12, 1939,(14) the House proceeded as follows on a Calendar Wednesday bill:

THE SPEAKER:(15) This is Calendar Wednesday. The Clerk will call the roll of committees.

MR. [ANDREW J.] MAY [of Kentucky] (when the Committee on Military Affairs was called): Mr. Speaker, by direction of the Committee on Military Affairs, I call up the bill (H.R. 985) to authorize the Secretary of War to furnish certain markers for certain graves, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The Clerk read the title of the bill.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, reserving the right to object, will the gentleman explain the bill before we grant this request?

MR. MAY: This is a bill to authorize the Secretary of War to furnish certain markers for graves of persons who are entitled to have them. Under the statute they are bronze markers or stone markers.

MR. [SAM] HOBBS [of Alabama]: Mr. Speaker, I object.

MR. MAY: To what is the gentleman objecting?

MR. HOBBS: I am objecting to the consideration of the bill.

MR. MAY: Then I move, Mr. Speaker, that the bill be considered in the House as in Committee of the Whole.

THE SPEAKER: The Chair is of the opinion that could not be permitted under the rules of the House. The gentleman may submit a unanimous-consent request, but not a motion.

The gentleman from Kentucky asks unanimous consent to consider the bill in the House as in Committee of the Whole. Is there objection to the request of the gentleman from Kentucky?

MR. HOBBS: I object, Mr. Speaker.

THE SPEAKER: This bill is on the Union Calendar.

Accordingly, the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 985) to authorize the Secretary of War to furnish certain markers for certain graves, with Mr. Tarver in the chair.

§ 4.10 Calendar Wednesday business is confined strictly to consideration of public bills and a committee may not call up a private bill when business of that committee is in order.

On June 5, 1940,(16) Speaker William B. Bankhead, of Alabama, declined to recognize a member of the Committee on Immigration and Naturalization to call up a private bill under the Calendar Wednesday procedure:

MR. [SAMUEL] DICKSTEIN [of New York]: Mr. Speaker, I have one more bill, which I have designated the gentle-

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14. 84 CONG. REC. 8945, 76th Cong. 1st Sess.
15. William B. Bankhead (Ala.).
16. 86 CONG. REC. 7629, 7630, 76th Cong. 3d Sess.

man from Michigan [Mr. Lesinski] to handle, and I ask the Chair to recognize the gentleman at this time.

Mr. [John] Lesinski [of Michigan]: Mr. Speaker, by authority of the Committee on Immigration and Naturalization I call up the bill (H.R. 9766) to authorize the deportation of Harry Renton Bridges.

The Speaker: The Clerk will report the bill.

The Clerk read the bill, as follows:

> *Be it enacted, etc.*, That the Secretary of Labor be, and is hereby, authorised and directed to take into custody and deport to Australia, the country of which he is a citizen or subject, the alien, Harry Renton Bridges, in the manner provided by sections 155 and 156, title 8, United States Code.

The Speaker: The Chair feels that it is solemn duty of the presiding officer of the House to enforce the rules of the House under all circumstances. There is no question about bills that may and may not be called up on Calendar Wednesday. The rules specifically provide that on a call of committees under this rule bills may be called up from either the House or the Union Calendars, except bills which are privileged under the rules. This bill which the gentleman from Michigan has called up is on the Private Calendar, and in the opinion of the Chair, under the rules, it is not eligible for consideration on Calendar Wednesday.

Order of Call on Calendar Wednesday

§ 4.11 Under the Calendar Wednesday rule, where all the committees have been called during a session of Congress, then at the commencement of a new session the call begins with the head of the committee list.

On Nov. 24, 1937,[17] Speaker William B. Bankhead, of Alabama, made a statement on the order of business under the Calendar Wednesday rule, where the calendar was being called for the first time during the session:

> The Speaker: Under the rules of the House this is Calendar Wednesday. The Chair directs the Clerk to call the list of committees, beginning with the head of the list, and in order that there may be no confusion about the matter of what committee shall be called first on this call, the Chair directs attention of the House to the last proviso of the Calendar Wednesday rule, in the following language:
>
> > *Provided*, That when, during any one session of Congress, all of the committees of the House are not called under the Calendar Wednesday rule, at the next session of Congress the call shall commence where it left off at the end of the preceding session.
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> The fact is, as disclosed by the Record, that during the last session of Congress not only were all of the committees of the House called once but at least twice. Under this proviso, which the Chair is bound to follow, the Chair directs the Clerk to call the

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[17] 82 Cong. Rec. 357, 75th Cong. 2d Sess.

committees beginning at the head of the list.

The Clerk called the following committees: Committee on Elections No. 1, Committee on Elections No. 2, Committee on Elections No. 3, Committee on Ways and Means, Committee on Appropriations, Committee on the Judiciary.

Parliamentarian's Note: The committees were called in the order listed in the Rules of the House (Rule X, clause 1) of the 75th Congress.

Authority and Recognition to Call Up Calendar Wednesday Business

§ 4.12 Any member of a committee, and not only the chairman thereof, may call up a bill on Calendar Wednesday if authorized to do so by the committee.

On Dec. 13, 1963,(18) Speaker pro tempore John J. Rooney, of New York, answered a parliamentary inquiry on who may call up Calendar Wednesday business:

> MR. OLIVER P. BOLTON [of Ohio]: Mr. Speaker, may I address that question to the Chair: If a committee chairman does not choose to call a bill up on Calendar Wednesday, may a member of the committee then call up a bill which has been passed out by the committee?
>
> THE SPEAKER PRO TEMPORE: That is possible if the chairman has been specifically authorized by the members of his committee to do so.
>
> MR. OLIVER P. BOLTON: I am sorry I did not understand the Speaker's reply. My question was: If the chairman chooses not to call up a bill, may a member of that committee then call it up?
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> THE SPEAKER PRO TEMPORE: Only if the committee has specifically authorized that member to do so.
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> MR. OLIVER P. BOLTON: I thank the Speaker.

§ 4.13 On one occasion, a letter from the chairman of a committee was evidence of the authority of another member of the committee to call up a bill on Calendar Wednesday.

On July 10, 1946,(19) Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry on the requirement that a Member be authorized by the committee to call up a bill on Calendar Wednesday:

> MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
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> MR. MARCANTONIO: As I understand the rules, the person who calls up a bill from a committee must be au-

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18. 109 CONG. REC. 24570, 88th Cong. 1st Sess.

19. 92 CONG. REC. 8590, 79th Cong. 2d Sess.

thorized and directed by the committee to call up the bill.

The Speaker: That is correct.

Mr. Marcantonio: I now propound the parliamentary inquiry as to whether or not the gentleman from Mississippi was actually directed by his committee to call up this bill.

The Speaker: The gentleman from Mississippi so stated when he called up the bill.

Mr. [John E.] Rankin [of Mississippi]: Yes; and I have a letter from the chairman to that effect.

The Speaker: The bill, being on the Union Calendar, the House automatically resolves itself into the Committee of the Whole.

§ 4.14 Only the member authorized by the committee reporting a bill may call up such bill on Calendar Wednesday and where a committee designates a member thereof to call up a bill on Calendar Wednesday no other Member may take such action.

On Feb. 24, 1937,(20) Speaker pro tempore William J. Driver, of Arkansas, answered an inquiry during Calendar Wednesday:

The Speaker Pro Tempore: Is there any further business from the Committee on the Judiciary?

Mr. [Francis E.] Walter [of Pennsylvania]: No, Mr. Speaker.

Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, this is the Judiciary Committee's day, and the committee instructed its chairman to call up the bill (H.R. 2260) providing for appeals when constitutional questions are raised, which is a part of the President's proposal.

This bill was introduced in the Congress January 8, before the President made any suggestions. It was given thorough consideration by the Committee on the Judiciary and was to be considered on our last Calendar Wednesday day, when suddenly the House was adjourned in the middle of the afternoon. This is our next day, and it is possibly the last day we will get this session. I hope the gentleman from Pennsylvania [Mr. Walter] will call up this bill that the President wants considered. It has the approval of the committee and would have passed the House on last Calendar Wednesday if the majority leader had not adjourned the House.

Mr. Walter: Regular order, Mr. Speaker.

The Speaker Pro Tempore: The regular order is demanded. The Clerk will call the roll of committees.

Mr. Michener: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Michener: Mr. Speaker, where a bill has been reported favorably by a committee, and the chairman of the committee is authorized to call the bill up on Calendar Wednesday, when the chairman absents himself from the floor, and when other members of the committee are present, is it proper for one of the other members to call up the bill?

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(20) 81 Cong. Rec. 1562, 1563, 75th Cong. 1st Sess.

The Speaker Pro Tempore: The Chair will state to the gentleman that under the rules only the chairman or the member designated by the committee is authorized to call up a bill.(1)

§ 4.15 Only a member authorized to do so by a committee may call up a bill on Calendar Wednesday and this matter is entirely within the discretion of the committee.

On June 11, 1941,(2) Speaker Sam Rayburn, of Texas, answered an inquiry on the operation of the Calendar Wednesday rule:

Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, the Committee on Agriculture has had the call today. There are other bills on the calendar that the committee has reported out and that are very important, but which have not been called up. For instance, there is the Coffee sugar bill, in which a great many people are interested and upon which the beet-sugar industry is looking for aid during the coming year. This is the Agriculture Committee's day. The rules intend that the committee shall call up all its bills on the calendar. There is not a rule of the House, and the Committee on Rules cannot even bring in a resolution, taking away from a legislative committee the right to call up its bills on the calendar on its Calendar Wednesday. The Agriculture Committee calendar has not been completed today, and the committee has the remainder of the day. Is it in order for any member of the committee to call up a bill reported by the committee in order that the democratic processes of the House shall obtain? That is, can a chairman of a committee thwart the will of a committee and refuse to exhaust the calendar of eligible bills?

The Speaker: That matter is not in the hands of the Chair. However, the Chair may state that no member of a committee may call up a bill on Calendar Wednesday unless he has been specifically authorized by the committee to do so. The Chair would not know whether or not the committee has instructed another member of the committee to call up any other bill.

Mr. Michener: The one sacred day of all calendar days is Calendar Wednesday. The rights of people of the country repose in these committees. Calendar Wednesday is known as the people's day because no arbitrary power can deprive a committee from the privilege of calling up its bills on this day. It can only be dispensed with by unanimous consent. Even the leadership of the House cannot take away from a committee the right of the people to have their legislation considered on this day. Now, a majority of the Committee on Agriculture have reported out that sugar bill favorably, and they are asking for its consideration. Is it possible that somebody within that committee which has reported the bill favorably can deny the people their right to have their legislation considered? A rule is not necessary

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1. See also 78 Cong. Rec. 2138, 73d Cong. 2d Sess., Feb. 7, 1934.
2. 87 Cong. Rec. 5047, 77th Cong. 1st Sess.

today. If that Coffee sugar bill is not brought up today when there is plenty of time, the fault certainly rests, not with the Speaker, not with the majority leadership, not with the Rules Committee, but with a recalcitrant Committee on Agriculture or the controlling members thereof. Why should the sugar-beet interests be discriminated against in this arbitrary way?

THE SPEAKER: The Chair answered the gentleman's parliamentary inquiry some time ago.

§ 4.16 Section 133(c) of the Legislative Reorganization Act of 1946, now incorporated in Rule XI, providing that it shall be the duty of the chairman of each committee to report or cause to be reported promptly any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote, is sufficient authority to call up a bill on Calendar Wednesday.

On Feb. 22, 1950,(3) Speaker Sam Rayburn, of Texas, overruled a point of order against recognition of a committee chairman to call up a bill on Calender Wednesday:

THE SPEAKER: This is Calendar Wednesday. The Clerk will call the committees.

MR. [JOHN] LESINSKI [of Michigan] (when the Committee on Education and Labor was called): Mr. Speaker, by direction of the Committee on Education and Labor I call up the bill (H.R. 4453) to prohibit discrimination in employment because of race, color, religion, or national origin.

The Clerk read the title of the bill.

MR. [TOM] PICKETT [of Texas]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. PICKETT: Mr. Speaker, I make the point of order that the chairman of the Committee on Education and Labor has not been properly directed to call up the bill under the rules and precedents that are required to be followed in keeping with the practice on Calendar Wednesday, and on that I should like to be heard.

THE SPEAKER: The gentleman has been heard.

MR. LESINSKI: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER: The Chair will hear the gentleman briefly.

MR. LESINSKI: Mr. Speaker, I was authorized by the committee to use all parliamentary means to bring the bill before the House.

MR. PICKETT: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER: The Chair will hear the gentleman very briefly. The Chair has the most recent rules of the House before him and desires to read them. The Chair feels that possibly their reading will satisfy the gentleman.

MR. PICKETT: If I am not satisfied with what the Speaker reads may I be heard on the point of order?

THE SPEAKER: The Chair will hear the gentleman briefly now.

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3. 96 CONG. REC. 2161, 2162, 81st Cong. 2d Sess.

Mr. Pickett: My point of order is based on the precedents of the House annotated on page 460, paragraph 898, of the House Rules and Manual, where it is stated that authority to call up a bill on Calendar Wednesday must have been given by the committee, and a member not authorized to do so may not call up such bill. The annotations refer to Hinds' Precedents, volume 4, paragraphs 3127 and 3128; and [Cannon's] Precedents, volume 7, paragraphs 928 and 929. I wish to call these paragraphs to the attention of the Speaker.

The Speaker: Those paragraphs have already been called to the attention of the Speaker.

Mr. Pickett: Mr. Speaker, further in reference to the point of order, if it be contended that the Reorganization Act of 1946 which became effective on January 3, 1947, at section 133 thereof, paragraph (c), empowers the chairman of this committee to call up the bill, in view of the language that it directs him to take or cause to be taken necessary steps to bring the matter to a vote, then my response to that would be that one of the necessary steps to cause this bill to be brought to the attention of the House for a vote is to comply with the requisites and get his committee to give him specific directions to call this bill up on Calendar Wednesday.

The Speaker: The Chair is prepared to rule.

The gentleman from Michigan [Mr. Lesinski] has already stated that the committee did give him this authority. The present occupant of the chair has read the minutes of the committee and thinks the gentleman from Michigan is correct.

Also the latest rule on this matter is section 133, paragraph (c), of the Legislative Reorganization Act, and there is very good reason for this rule because in times past the chairmen of committees have been known to carry bills around in their pockets for quite a while and not present them.

The rule is as follows:

> It shall be the duty of the chairman of each such committee to report or cause to be reported promptly to the Senate or House of Representatives, as the case may be, any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote.

The Chair overrules the point of order.

Parliamentarian's Note: Section 133(c) of the Legislative Reorganization Act of 1946, cited by the Speaker, was adopted as part of the rules of the House in 1953 [Rule XI clause 2(l)(1)(A) § 713(a), in the 1979 *House Rules and Manual*].

§ 4.17 The Speaker, on a Calendar Wednesday, recognized the chairman of a committee to call up a bill in spite of repeated motions to adjourn.

On Feb. 15, 1950,[4] which was Calendar Wednesday, Speaker Sam

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[4] 96 Cong. Rec. 1811, 1812, 81st Cong. 2d Sess.

Rayburn, of Texas, declined to recognize for motions to adjourn:

THE SPEAKER: The Clerk will call the committees.

The Clerk called the Committee on the District of Columbia.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair does not yield to the gentleman for a parliamentary inquiry at this time.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The Clerk has called the Committee on the District of Columbia. The Chair recognizes the gentleman from South Carolina [Mr. McMillan].

MR. SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn. That motion is always in order.

THE SPEAKER: The Chair has recognized the gentleman from South Carolina [Mr. McMillan].

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, I offer a preferential motion.

THE SPEAKER: The gentleman from South Carolina [Mr. McMillan] has been recognized.

MR. COLMER: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The gentleman from South Carolina [Mr. McMillan] has been recognized.

MR. [JOHN L.] McMILLAN of South Carolina: Mr. Speaker, I call up the bill (H.R. 6670) to incorporate the Girl Scouts of the United States of America, and for other purposes.

The Clerk read the title of the bill.

Parliamentarian's Note: Repeated roll calls were had on this day, in an attempt to delay business under the Calendar Wednesday rule. The "filibuster" attempt was not actually designed to delay District of Columbia bills but to delay the call of the Committee on Education and Labor the following Wednesday, when the Federal Fair Employment Practices bill was to be called up.

Question of Consideration on Calendar Wednesday

§ 4.18 The question of consideration may be demanded in the House on a bill called up under the Calendar Wednesday rule.

On May 4, 1960, Mr. Brent Spence, of Kentucky, of the Committee on Banking and Currency called up a bill from that committee under the Calendar Wednesday rule when the committee was called. Mr. Charles A. Halleck, of Indiana, raised the question of consideration against the bill and on a yea and nay vote the House agreed to consider it.(5)

On Aug. 30, 1961, Mr. Adam C. Powell, of New York, called up

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5. 106 CONG. REC. 9417, 86th Cong. 2d Sess.

under authority from the Committee on Education and Labor, H.R. 8890 (the Emergency Educational Act of 1961) when the committee was called under the Calendar Wednesday rule. Mr. F. Edward Hébert, of Louisiana, raised the question of consideration and the House refused to consider the bill on a yea and nay vote.(6)

§ 4.19 The refusal of the House to consider a bill called up under the Calendar Wednesday rule would not prevent the reporting of a resolution by the Committee on Rules making the bill a special order of business.

On May 4, 1960,(7) Speaker Sam Rayburn, of Texas, answered an inquiry on the status of a bill should the House refuse to consider it if called up under the Calendar Wednesday rule:

> MR. [CHARLES A.] HALLECK [of Indiana]: In the event that the motion to consider the bill should not prevail in the House, would it still be possible if a rule were reported by the Rules Committee for the bill to be brought before the House at a later date under a rule?
>
> THE SPEAKER: The Chair would think the House could adopt any rule reported by the Committee on Rules.

§ 4.20 When a bill is called up by a committee under the Calendar Wednesday rule, the question of consideration is properly raised after the Clerk has read the title of the bill; and if the question of consideration is decided in the affirmative, when raised against a bill on the Union Calendar, the House automatically resolves itself into the Committee of the Whole.

On May 4, 1960,(8) Speaker Sam Rayburn, of Texas, answered parliamentary inquiries on consideration of Calendar Wednesday business:

> MR. [CHARLES A.] HALLECK [of Indiana]: One further parliamentary inquiry, Mr. Speaker.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HALLECK: In the event that the motion to consider the bill should not prevail in the House, would it still be possible if a rule were reported by the Rules Committee for the bill to be brought before the House at a later date under a rule?
>
> THE SPEAKER: The Chair would think the House could adopt any rule reported by the Committee on Rules.
>
> The Chair will state to the gentleman from Indiana and to the House that

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6. 107 CONG. REC. 17577, 87th Cong. 1st Sess.

7. 106 CONG. REC. 9417, 86th Cong. 2d Sess.

8. 106 CONG. REC. 9417, 86th Cong. 2d Sess.

when we reach the point of approving the Journal, the Chair will then order a call of the committees; and when the Committee on Banking and Currency is recognized and the gentleman from Kentucky [Mr. Spence] presents his bill, when the title of the bill is read the House automatically resolves itself into the Committee of the Whole.

Mr. Halleck: But is a motion necessary to consider the bill?

The Speaker: The question of consideration can always be raised.

Mr. Halleck: And on that, of course, it would be possible to have a record vote in the House.

The Speaker: In the opinion of the Chair, that would be correct.

Mr. [James C.] Davis of Georgia: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Davis of Georgia: The Chair has just stated—I believe I understood it this way—that when the bill is called up by the chairman of the Committee on Banking and Currency and the title is read the House automatically resolves itself into the Committee of the Whole.

The Speaker: That is the rule.

Mr. Davis of Georgia: But the motion raising the question must come before the title of the bill is read.

The Speaker: After the title is read.

Mr. Davis of Georgia: Sir?

The Speaker: After the title is read.

Mr. Davis of Georgia: There would still be time enough for it before the House automatically goes into the Committee of the Whole.

The Speaker: That is correct.

On Apr. 14, 1937,(9) the House proceeded as follows on the question of consideration raised against a Calendar Wednesday bill:

The Speaker:(10) Today is Calendar Wednesday. The Clerk will call the roll of committees.

Mr. [Clarence F.] Lea [of California] (when the Committee on Interstate and Foreign Commerce was called): Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce, I call up the bill (H.R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C., title 49, sec. 4).

The Clerk read the title of the bill.

Mr. [Alfred L.] Bulwinkle [of North Carolina]: Mr. Speaker, I raise the question of consideration.

The Speaker: The gentleman from North Carolina raises the question of consideration of the bill. The question is, Will the House consider the bill H.R. 1668.

The question was taken: and on a division (demanded by Mr. Lea) there were—ayes 152, noes 73.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The Speaker: The question is, Will the House consider the bill (H.R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as

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9. 81 Cong. Rec. 3455, 3456, 75th Cong. 1st Sess.
10. William B. Bankhead (Ala.).

amended February 28 1920 (U.S.C., title 49, sec. 4)?

The question was taken; and there were—yeas 278, nays 97, answered "present" 1, not voting 54, as follows: . . .

The Speaker: The House automatically resolves itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

Unanimous-consent Requests on Calendar Wednesday

§ 4.21 Calendar Wednesday business follows the one-minute speeches and special orders granted to take place before the business of the day.

On May 22, 1946,[11] Speaker Sam Rayburn, of Texas, answered an inquiry on the order of business where a Member had been granted a special order to address the House prior to business:

Mr. [Alfred L.] Bulwinkle [of North Carolina]: Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The Speaker: Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a parliamentary inquiry. Will that vitiate the call of the calendar on Calendar Wednesday, if the Speaker recognizes Members for 1-minute speeches?

The Speaker: The Chair is going to recognize Members to proceed for a minute and to extend their remarks and then will recognize the gentleman from Virginia [Mr. Bland], who has an hour for Maritime Day.

Mr. Marcantonio: I understand that after that the call of the Calendar of Committees under the Calendar Wednesday rule will be in order.

The Speaker: Then the Chair will announce the call of the Calendar of Committees.

The gentleman from North Carolina is recognized.

§ 4.22 Objection was made to any extension of remarks, one-minute speeches, or any business except the call of committees under the Calendar Wednesday rule.

On Feb. 1, 1950,[12] objection was made to the delivering of speeches or the transaction of business before the call of committees under the Calendar Wednesday rule (Speaker Sam Rayburn, of Texas, presiding):

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Marcantonio: Mr. Speaker, this is Calendar Wednesday. I make a point of order against the transaction of any business except the call of the committees.

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[11] 92 Cong. Rec. 5439, 79th Cong. 2d Sess.

[12] 96 Cong. Rec. 1311, 81st Cong. 2d Sess.

The Speaker: The gentleman objects to any extension of remarks or any other business except the call of the committees.

§ 4.23 In construing the Calendar Wednesday rule, the Speaker announced the policy that he would follow in the future would be not to recognize any Member to ask unanimous consent to speak prior to business on Calendar Wednesday.

On Feb. 26, 1930,(13) Speaker Nicholas Longworth, of Ohio, announced some guidelines for recognition of Members on Calendar Wednesday:

> The Chair is in some doubt as to whether it is his duty to recognize, first, those gentlemen who have obtained unanimous consent to address the House to-day, this being Calendar Wednesday, or to direct the call of committees, Calendar Wednesday business has not been formally dispensed with, either by unanimous consent or, as it could be now, by a two-thirds vote of the House. The present occupant of the Chair has made it a general practice not to recognize for unanimous consent a request to address the House on Calendar Wednesday. However, the consent has been given while some one else was temporarily in the chair. The Chair thinks that under the circumstances perhaps the best mode of procedure would be to recognize those gentlemen who have obtained unanimous consent to address the House, but the Chair states that he will not consider this as a precedent in the future. . . .
>
> The Chair desires to state that in recognizing the special orders in this instance he will not regard this as a precedent which should govern his ruling on the subject on some future occasion.
>
> Mr. [John N.] Garner [of Texas]: Then if I understand the Speaker, in the future the Speaker would probably hold that in case he should be absent from the chair and some other Speaker pro tempore did not take care of Calendar Wednesday, as he so wisely does, that he would hold that the special order made by the House, in his absence, could be vacated by virtue of it being Calendar Wednesday.
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> The Speaker: The Chair does not go so far as to say that, but Calendar Wednesday from the beginning—and the Chair remembers when it was adopted—was for the purpose of preventing any other business being transacted on that day, leaving the day free for the call of committees and the rule is very strong on that subject. The rule provides—
>
>> On Wednesday of each week no business shall be in order except as provided by paragraph 4 of this rule unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine.
>
> Now, the Chair is in some doubt, where unanimous consent is given to some Member to address the House on Calendar Wednesday, whether that abolishes Calendar Wednesday to the

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13. 72 Cong. Rec. 4303, 4304, 71st Cong. 2d Sess.

extent of that time or whether it abolishes altogether. The Chair wants to give some consideration to that point, and therefore the Chair desires to state that he will not feel that he will be bound by this precedent in the future.

Debate on Calendar Wednesday

§ 4.24 Debate on bills considered in the Committee of the Whole under the Calendar Wednesday rule is limited to two hours, one hour controlled by the Member in charge of the bill and one hour by a Member in opposition; and in recognizing a Member to control the time in opposition to the bill, the Chair recognizes minority members on the committee reporting the bill in the order of their seniority on the committee.

On Apr. 14, 1937,(14) Chairman J. Mark Wilcox, of Florida, answered a parliamentary inquiry in the Committee of the Whole relative to the duration and distribution of debate on a bill called up under the Calendar Wednesday procedure (H.R. 1668, to amend the Interstate Commerce Act, called up by the Committee on Interstate and Foreign Commerce):

THE CHAIRMAN: Under the rules of the House, the gentleman from California [Mr. Lea] is recognized for 1 hour.

MR. [PEHR G.] HOLMES [of Massachusetts]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HOLMES: As I understand the rules of the House, in the consideration of this bill 2 hours of general debate is allowed on the bill?

THE CHAIRMAN: The gentleman is correct.

MR. HOLMES: Am I to understand that 1 hour will be extended me in opposition to the bill as a minority member, of the committee?

THE CHAIRMAN: Is the gentleman from Massachusetts, opposed to the bill?

MR. HOLMES: I am, Mr. Chairman.

THE CHAIRMAN: Is the gentleman from Massachusetts the ranking minority member of the committee?

MR. HOLMES: I am the ranking minority member opposed to the bill.

THE CHAIRMAN: The gentleman is entitled to recognition in opposition to the bill unless a minority member of the committee outranking the gentleman desires recognition.

MR. [CARL E.] MAPES [of Michigan]: Mr. Chairman, the gentleman from Massachusetts [Mr. Holmes] is the only minority member of the committee who is opposed to the bill.

THE CHAIRMAN: Then the gentleman from Massachusetts will be recognized in opposition to the bill.

MR. [COMPTON I.] WHITE of Idaho: Mr. Chairman, a parliamentary inquiry.

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14. 81 CONG. REC. 3456, 75th Cong. 1st Sess.

The Chairman: The gentleman will state it.

Mr. White of Idaho: It is my understanding an arrangement has been made so that the opponents of the bill on the majority side will be given 30 minutes of time. I should like to know if that understanding is going to hold.

The Chairman: Under the rules of the House, general debate is limited to 2 hours, 1 hour to be controlled by the chairman of the committee and 1 hour to be controlled by a minority member in opposition to the bill. These two gentlemen, of course, will have control of the assignment of time, and I assume, of course, it will be assigned to those in opposition to the bill.

Mr. White of Idaho: What opportunity will the opponents of the bill on the majority side have to be heard on the measure?

The Chairman: The Chair has stated to the gentleman that under the rules 1 hour of the debate will be controlled by the gentleman from Massachusetts in opposition to the bill, the gentleman from Massachusetts having been recognized for that purpose.

Mr. [Alfred L.] Bulwinkle [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Bulwinkle: I understand that if the gentleman from Massachusetts [Mr. Holmes] should see fit to yield part of the time to this side of the House to be used by those in opposition, he can do so, and I should like to inquire of the gentleman from Massachusetts about that.

The Chairman: That, of course, is within the discretion of the gentleman from Massachusetts. He can yield the time as he sees fit, and the Chair will recognize those who are designated by the gentleman.

Speaker Sam Rayburn, of Texas, answered a similar parliamentary inquiry on July 10, 1946:(15)

The Speaker: This is Calendar Wednesday. The Clerk will call the committees.

Mr. [John E.] Rankin [of Mississippi] (when the Committee on Rivers and Harbors was called): Mr. Speaker, by direction of the Committee on Rivers and Harbors, I call up the bill (H.R. 6024) relating to the prevention and control of water pollution, and for other purposes.

Mr. Speaker, I would like to propound a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rankin: As I understand it, there are 2 hours of debate, 1 hour on each side, to be controlled by the ranking majority and minority members.

The Speaker: The gentleman is correct.

Reconsideration Not in Order on Question of Consideration on Calendar Wednesday

§ 4.25 It is not in order to reconsider the vote whereby the House has declined to consider a proposi-

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15. 92 Cong. Rec. 8590, 79th Cong. 2d Sess.

tion under the Calendar Wednesday rule.

On Apr. 7, 1937,(16) Speaker William B. Bankhead, of Alabama, ruled that the motion to reconsider was not in order on the refusal of the House to consider a Calendar Wednesday bill:

> THE SPEAKER: The gentleman from New York [Mr. Hamilton Fish, Jr.] raises the question of consideration.
>
> The question is, Will the House consider the bill (H.R. 2251) to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching?

The House refused to consider the bill.

> MR. FISH: Mr. Speaker, I move to reconsider the vote by which the House refused to consider the bill and lay that motion on the table.
>
> THE SPEAKER: The Chair thinks that that motion is not in order on a vote of this character.

Unfinished Business on Calendar Wednesday

§ 4.26 When the Committee of the Whole during consideration of a bill on Calendar Wednesday votes to rise and the House then rejects a motion to adjourn, Calendar Wednesday business is still before the House, and if the chairman of the committee having the call calls up the same bill, the House automatically resolves itself into the Committee of the Whole and resumes consideration of the bill where it left off.

On Feb. 22, 1950,(17) the Committee of the Whole had under consideration H.R. 4453, the Federal Fair Employment Practice Act, which had been called up by the Committee on Education and Labor under the Calendar Wednesday procedure. The Committee agreed to a motion to rise, and the House rejected a motion to adjourn; pending a demand for the yeas and nays on the motion to adjourn, Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry as follows:

> MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HARRIS: As I understand, the roll call now is on the motion to adjourn.
>
> THE SPEAKER: That is correct.
>
> MR. HARRIS: If the motion to adjourn is not agreed to, then what will be the parliamentary situation?
>
> THE SPEAKER: It will be Calendar Wednesday business.
>
> MR. HARRIS: A further parliamentary inquiry, Mr. Speaker.

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16. 81 CONG. REC. 3253, 3254, 75th Cong. 1st Sess.

17. 96 CONG. REC. 2238–40, 81st Cong. 2d Sess.

THE SPEAKER: The gentleman will state it.

MR. HARRIS: Do we automatically then go back into Committee?

THE SPEAKER: If the gentleman from Michigan calls the bill up again, yes.

Following the rejection of the motion to adjourn, Mr. John Lesinski, of Michigan, called up, by direction of the Committee on Education and Labor, the same bill. After the House decided the question of consideration in the affirmative, the Speaker directed that the House automatically resolve itself into the Committee of the Whole for the consideration of the bill.

§ 4.27 Where the House adjourns after ordering the previous question on a bill and amendments thereto on a Calendar Wednesday, the bill becomes the unfinished business the next day and separate votes may be demanded on amendments the next day.

On May 17, 1939,(18) Speaker William B. Bankhead, of Alabama, answered a parliamentary inquiry on the effect of adjournment on a pending Calendar Wednesday bill with amendments thereto, where the previous question has been ordered:

MR. [JOSEPH J.] MANSFIELD [of Texas]: Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The previous question was ordered.

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:. The gentleman will state it.

MR. RAYBURN: Were the House to adjourn at this time, would the present bill be the pending business tomorrow?

THE SPEAKER: Answering the parliamentary inquiry of the gentleman from Texas, the Chair will state that the previous question having been ordered on the bill and all amendments to final passage, it would be the unfinished and privileged order of business tomorrow morning.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Can these individual amendments then be voted on?

THE SPEAKER: A separate vote can be demanded on them when that question is reached.

§ 4.28 The previous question having been ordered on a bill on Calendar Wednesday, the bill becomes the unfinished business after the reading of the Journal on the next legislative day or on any day thereafter.

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(18) 84 CONG. REC. 5682, 76th Cong. 1st Sess.

On Apr. 25, 1930,[19] the previous question was ordered on a Calendar Wednesday bill, and then a Member demanded the reading of the engrossed copy, which was not yet prepared. Speaker Nicholas Longworth, of Ohio, answered a parliamentary inquiry on when the bill would come up as unfinished business:

The Speaker: The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

Mr. [Harold] Knutson [of Minnesota]: Mr. Speaker, I demand the reading of the engrossed bill.

The Speaker: The gentleman from Minnesota demands the reading of the engrossed bill. It is plainly impossible to read the engrossed bill at this time.

Mr. [Bertrand H.] Snell [of New York]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Snell: As I understand the situation, there is a decision by Speaker Gillett that, if the reading of the engrossed copy of the bill at this time is demanded, it will be in order to take this up on the next legislative day.

The Speaker: The Chair would consider it the unfinished business.

Mr. Knutson: Mr. Speaker, I withdraw my demand.

The Speaker: The Clerk will read the bill by title for the third time.

Similarly, Speaker Longworth answered a parliamentary inquiry on May 14, 1930, as to the status of Calendar Wednesday business as unfinished business:

Mr. [Charles R.] Crisp [of Georgia]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Crisp: Mr. Speaker, the previous question having been ordered on the bill and amendments to final passage, if the House adjourns now, ordinarily would not the matter come up the next day, and tomorrow being set apart under special order for memorial exercises, if the House adjourns now, will not this matter, the previous question having been ordered, come up after the reading of the Journal on Friday?

The Speaker: On Friday, tomorrow not being a legislative day.[20]

On Feb. 22, 1950, Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry after the House had ordered the previous question on a Calendar Wednesday bill and after a Member had demanded the reading of the engrossed copy thereof:

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

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[19] 72 Cong. Rec. 7774, 71st Cong. 2d Sess.

[20] *Id.* at p. 8964.

The Speaker: The gentleman will state it.

Mr. Rankin: Mr. Speaker, that means the House will have to stay in session until the engrossed copy is secured?

The Speaker: It does not.

Mr. Rankin: We cannot take a recess on Calendar Wednesday?

The Speaker: The House can adjourn.

Mr. Rankin: We can adjourn but that ends Calendar Wednesday.

The Speaker: The previous question has been ordered and the next time the House meets, whether this week or any other week, it is the pending business.

Mr. [William M.] Colmer [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Colmer: Can the Speaker advise us when the engrossed copy will be available and when the vote will be taken?

The Speaker: Not until the gentleman from Massachusetts makes a request about adjournment or offers a motion.

The Chair wants all Members to understand that on the convening of the House at its next session, the final disposition of this matter is the pending business.(1)

§ 4.29 Where a quorum fails on ordering the previous question on a bill under consideration on a Calendar Wednesday, and the House adjourns, the vote goes over until the next Calendar Wednesday day of the committee reporting the bill.

On Mar. 7, 1935,(2) Speaker Joseph W. Byrns, of Tennessee, answered an inquiry on the status of unfinished Calendar Wednesday business on which the previous question was not ordered:

Mr. [Frederick R.] Lehlbach [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Lehlbach: Yesterday the previous question was moved on a bill then pending, and upon a division the vote was 36 to 16, whereupon a point of no quorum was made. Under the rules of the House there would follow an automatic roll call on the question of ordering the previous question, but before proceedings could be had the gentleman from New York [Mr. O'Connor] moved that the House adjourn, and the House accordingly adjourned. My inquiry is, Is the motion for the previous question still pending?

The Speaker: The motion is pending and the vote will again be taken the next time the committee is called under the Calendar Wednesday rule; that will be the first business in order when the Judiciary Committee is again called on Calendar Wednesday.

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(1) 96 Cong. Rec. 2254, 81st Cong. 2d Sess.

(2) 79 Cong. Rec. 3121, 74th Cong. 1st Sess.

Privileged Motion to Dispense With Calendar Wednesday

§ 4.30 The privileged motion to dispense with Calendar Wednesday business in order on a particular Wednesday may be made and considered on a previous day.

On Monday, June 11, 1973,(3) Speaker Carl Albert, of Oklahoma, recognized Mr. John J. McFall, of California, to move that the House dispense with Calendar Wednesday business in order on Wednesday, June 13 (objection had been made to a unanimous-consent request on June 8 to dispense with such business on June 13). The House agreed to the motion by a two-thirds vote.

Parliamentarian's Note: There is no prohibition in the rules against repeating the motion to dispense with Calendar Wednesday business, whether made on the same or a succeeding day.

§ 4.31 The motion to dispense with Calendar Wednesday business is in order at any time of the day on Wednesdays and need not be made early in the day.

On June 5, 1946,(4) Speaker Sam Rayburn, of Texas, ruled that a motion to dispense with Calendar Wednesday business could be made on Calendar Wednesday, after the call had begun, and that the motion required a two-thirds vote. He answered a further inquiry:

THE SPEAKER: The Chair will read the rule so that there will be no misunderstanding:

> On Wednesday of each week no business shall be in order except as provided by paragraph 4 of this rule unless the House, by a two-thirds vote on motion to suspend therewith, shall otherwise determine.

The question is on the motion to dispense with further proceedings under Calendar Wednesday.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Does that motion not have to be made at the very beginning of the day?

THE SPEAKER: The Chair holds otherwise.

Similarly, on Aug. 17, 1949,(5)

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3. 119 CONG. REC. 19028–30, 93d Cong. 1st Sess.; see also 7 Cannon's Precedents § 916 and § 4.38, infra, for the proposition that the motion may be made on a previous day. On one occasion, the Speaker suggested that a Member withhold offering the motion until the Wednesday in question. 96 CONG. REC. 959, 960, 81st Cong. 2d Sess., Jan. 26, 1950.

4. 92 CONG. REC. 6357, 79th Cong. 2d Sess.

5. 95 CONG. REC. 11658, 81st Cong. 1st Sess.

Speaker Rayburn ruled that the motion to dispense with further proceedings under the Calendar Wednesday rule was in order:

Mr. [J. Percy] Priest [of Tennessee]: Mr. Speaker, I ask unanimous consent that further call of the committees on Calendar Wednesday today be dispensed with.

The Speaker: Is there objection to the request of the gentleman from Tennessee?

Mr. Marcantonio: Mr. Speaker, I object.

Mr. Priest: Mr. Speaker, I move that further call of the committees on Calendar Wednesday for today be dispensed with.

Mr. Marcantonio: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Marcantonio: Mr. Speaker, this is Calendar Wednesday and I submit the motion offered by the gentleman from Tennessee [Mr. Priest] is not in order, that it can only be dispensed with by unanimous consent.

The Speaker: It would require a two-thirds vote, but the rules provide for dispensing with further call of the committees by motion.

The question is on the motion offered by the gentleman from Tennessee.

The motion was agreed to.

§ 4.32 The Speaker is constrained to recognize on Wednesdays any Member proposing a motion to dispense with further proceedings on that day and a two-thirds vote is required to adopt the motion.

On June 5, 1946,[6] the following discussion and ruling by Speaker Sam Rayburn, of Texas, took place in relation to the motion to dispense with Calendar Wednesday business, made on Calendar Wednesday:

Mr. [William M.] Whittington [of Mississippi]: That was my inquiry, Mr. Speaker.

Mr. Speaker, I therefore move that the House dispense with further proceedings under Calendar Wednesday.

Mr. [Joseph W.] Martin [Jr.] of Massachusetts: Mr. Speaker, a point of order. That can only be done by unanimous consent.

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state the point of order.

Mr. Marcantonio: Mr. Speaker, that motion is not in order. To dispense with Calendar Wednesday requires the unanimous consent of the House.

Mr. Whittington: Mr. Speaker, with your indulgence, may I say that I agree that to dispense with Calendar Wednesday entirely can only be done by unanimous consent, but when there has been a call, and the Committee on Banking and Currency has been called, I respectfully submit that dispensing with the remainder of the proceedings under Calendar Wednesday is in order and that the point of order does not lie.

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[6] 92 Cong. Rec. 6357, 79th Cong. 2d Sess.

Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, will the gentleman yield?

Mr. Marcantonio: I yield to the gentleman from Michigan.

Mr. Michener: Without reference to the current controversy, may I call the Speaker's attention to the fact that Calendar Wednesday is presumed to be the people's day; that is, all committees are called in order, and whether a bill comes up for consideration rests entirely within the control of the committee having the call, the majority leadership and the Rules Committee to the contrary notwithstanding.

Calendar Wednesday is usually dispensed with only by unanimous consent. There would be very little use for such a day if this were not the case. General legislation on other days is programed by the leadership; not so on Calendar Wednesday. It would, therefore, seem fundamental if the purposes of the rule are to be carried out, that the committees should be called in order. Were it otherwise, the majority which controls other programs could control proceedings on Calendar Wednesday.

It would seem fair to proceed with the call of committees, and that no motion to dispense with further proceedings under the Calendar Wednesday rule should be in order.

Mr. Marcantonio: Mr. Speaker, may I say further that the motion is not in order because the call of the calendar is mandatory. That motion cannot have preference over the call of the Calendar. The only motion that can be considered, as I understand, would be a motion to adjourn, upon which the House has just voted.

Mr. Whittington: Mr. Speaker, with your indulgence, I have no disposition to delay proceedings, but permit me to say it has been the general and practically universal practice with respect to dispensing with further proceedings under Calendar Wednesday, that that motion has frequently been made when one committee of this House has been called. I submit that to the recollection and to the judgment not only of the Speaker but to the Members of the House.

I respectfully maintain, Mr. Speaker, that the point of order does not lie.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, will the gentleman yield?

Mr. Whittington: If I have the floor.

Mr. Rankin: If you will go back and search the Record of Calendar Wednesday proceedings, you will find that time and time again when one committee has been called, then a motion has been made to dispense with further proceedings under Calendar Wednesday, and that motion carried.

Mr. Whittington: If further proceedings are dispensed with, then the House can proceed to transact other business for the remainder of the day, including the unfinished river and harbor bill that is pending.

The Speaker: The Chair will state that the following was held by Speaker Gillett, who has been quoted today, as follows:

> The Speaker is constrained to recognize on Wednesdays any Member proposing a motion to dispense

with further proceedings in order on that day.

The motion is in order, but it takes a two-thirds vote to pass it.

MR. [HERMAN P.] EBERHARTER [of Pennslyvania]: Mr. Speaker, does that motion require a two-thirds vote?

THE SPEAKER: It does.

MR. WHITTINGTON; I did not understand the Speaker's answer.

THE SPEAKER: The answer was that to suspend the call of the calendar on Wednesday requires a two-thirds vote.

MR. WHITTINGTON: Is a mere motion now to dispense with further proceedings the same as a motion to suspend the rules altogether? My motion is to simply suspend further proceedings under the call of Calendar Wednesday. I maintain there is a distinction between dispensing with the call altogether and dispensing with further proceedings under the call.

THE SPEAKER: The Chair will read the rule so that there will be no misunderstanding:

> On Wednesday of each week no business shall be in order except as provided by paragraph 4 of this rule unless the House, by a two-thirds vote on motion to suspend therewith, shall otherwise determine.

The question is on the motion to dispense with further proceedings under Calendar Wednesday.

MR. MARCANTONIO: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Does that motion not have to be made at the very beginning of the day?

THE SPEAKER: The Chair holds otherwise.

§ 4.33 A privileged motion to dispense with Calendar Wednesday business preceded District of Columbia business under Rule XXIV clause 8.

On June 11, 1973,(7) which was District of Columbia Monday, Mr. John J. McFall, of California, was first recognized by Speaker Carl Albert, of Oklahoma, to offer the privileged motion (under Rule XXIV clause 7) to dispense with Calendar Wednesday business, before Chairman John L. McMillan, of South Carolina, of the Committee on the District of Columbia was recognized to call up District business.

Parliamentarian's Note: Objection had been made on the previous week, on June 8, to a unanimous-consent request to dispense with Calendar Wednesday business on June 13.

Debate on Motion to Dispense With Calendar Wednesday

§ 4.34 Ten minutes of debate (five minutes in favor and five minutes in opposition) are permitted on a motion to dispense with Calendar Wednesday business.

On June 11, 1973,(8) Mr. John J.

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7. 119 CONG. REC. 19028–30, 93d Cong. 1st Sess.

8. 119 CONG. REC. 19028–30, 93d Cong. 1st Sess.

McFall, of California, moved to dispense with Calendar Wednesday business; he was recognized for five minutes and a Member in opposition was recognized for five minutes:

> Mr. McFall: Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> Mr. McFall moves that business under clause 7, rule XXIV, the Calendar Wednesday rule, be dispensed with on Wednesday, June 13, 1973. . . .
>
> The Speaker:[9] The gentleman from California (Mr. McFall) is recognized for 5 minutes. . . .
>
> The Speaker: The Chair recognizes the gentleman from Iowa (Mr. Gross) for five minutes. . . .
>
> The motion was rejected.

§ 4.35 In recognizing a Member for the five minutes in opposition to a motion to dispense with business under the Calendar Wednesday rule the Speaker extends preference to a member of the committee having the call.

On Feb. 22, 1950,[10] Speaker Sam Rayburn, of Texas, extended recognition as follows, in opposition to a motion to dispense with Calendar Wednesday business.

> The Speaker: The Clerk will report the motion.
>
> The Clerk read as follows:
>
> Mr. Rogers of Florida moves to dispense for the day with the operation of clause 7, rule XXIV, providing for the call of committees on Calendar Wednesday.
>
> Mr. [Dwight L.] Rogers of Florida: Mr. Speaker, do the rules provide for recognition on the motion?
>
> The Speaker: Yes; 5 minutes for and 5 minutes against. The Chair recognizes the gentleman from Florida for 5 minutes.

§ 4.36 A motion to dispense with business under the Calendar Wednesday rule must be in writing if the point of order is made; on such motion there is five minutes' debate for and five minutes against the motion, and such motion may not be laid upon the table.

On Feb. 22, 1950,[11] Speaker Sam Rayburn, of Texas, answered inquiries relative to debate on the motion to dispense with Calendar Wednesday business:

> Mr. [Dwight L.] Rogers of Florida: Mr. Speaker, I move to dispense for the day with the operation of clause 7, rule XXIV, providing for the call of committees on Calendar Wednesday.
>
> Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.

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[9] Carl Albert (Okla.).

[10] 96 Cong. Rec. 2157-59, 81st Cong. 2d Sess.

[11] 96 Cong. Rec. 2157-59, 81st Cong. 2d Sess.

MR. MARCANTONIO: Must not the motion be in writing?

MR. ROGERS of Florida: The motion is in writing.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

> Mr. Rogers of Florida moves to dispense for the day with the operation of clause 7, rule XXIV, providing for the call of committees on Calendar Wednesday.

MR. ROGERS of Florida: Mr. Speaker, do the rules provide for recognition on the motion?

THE SPEAKER: Yes; 5 minutes for and 5 minutes against. The Chair recognizes the gentleman from Florida for 5 minutes.

MR. MARCANTONIO: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Is not that motion subject to a motion to table?

THE SPEAKER: The Chair would not think so.

Parliamentarian's Note: Motions relating to the order of business are not subject to the motion to lay on the table. In the case of the motion to dispense with Calendar Wednesday business, which requires a two-thirds vote for adoption, it is clear that such motion should not be subject to disposition by a motion to table, which requires only a majority vote.

Vote on Motion to Dispense With Calendar Wednesday

§ 4.37 A two-thirds vote is required to adopt a motion to dispense with business under the Calendar Wednesday rule.

On Jan. 25, 1950,[12] Speaker Sam Rayburn, of Texas, indicated the vote required to adopt a motion to dispense with Calendar Wednesday business:

THE SPEAKER: This is Calendar Wednesday. The Clerk will call the committees.

MR. [JAMES C.] DAVIS of Georgia: Mr. Speaker, I move to dispense with further proceedings under the Calendar Wednesday rule.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MCCORMACK: This motion in order to succeed must receive a two-thirds vote, if I remember the rules correctly.

THE SPEAKER: The gentleman is correct.

On Feb. 22, 1950,[13] Speaker Rayburn answered a similar inquiry and the voting on the motion proceeded as follows:

THE SPEAKER: The question is on the motion offered by the gentleman from Florida.

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[12] 96 CONG. REC. 920, 921, 81st Cong. 2d Sess.

[13] *Id.* at p. 2159.

MR. [TOM] PICKETT [of Texas]: On that motion, Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

MR. [DONALD W.] NICHOLSON [of Massachusetts]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. NICHOLSON: Does it take a two-thirds vote on this motion?

THE SPEAKER: It does.

The question was taken; and there were—yeas 121, nays 285, not voting 25, as follows: . . .

So (two-thirds not having voted in favor thereof), the motion was rejected.

On June 20, 1951,[14] the House refused by division vote to dispense with Calendar Wednesday business:

THE SPEAKER:[15] The question is on the motion of the gentleman from Massachusetts [Mr. McCormack] that Calendar Wednesday business be dispensed with.

The question was taken; and on a division (demand by Mr. Rankin) there were—ayes 138, nays 72.

So (two-thirds not having voted in favor thereof) the motion was rejected.

THE SPEAKER: This is Calendar Wednesday. The Clerk will call the committees.

The Clerk proceeded to call the committees.

§ 4.38 The House by a two-thirds vote dispensed with business on Calendar Wednesday.

On July 16, 1946,[16] the House agreed to dispense with Calendar Wednesday business in order to expedite certain legislation:

MR. [ANDREW J.] MAY [of Kentucky]: Mr. Speaker, in view of the experience we have had over the past several weeks on Calendar Wednesdays and the delay in legislation resulting from the action we have taken on those days and in view of the importance of the legislation that is now pending, I believe it would be wise on the part of the Membership if we dispense with the business in order on Calendar Wednesday tomorrow and take up the atomic bomb bill for general debate. Therefore, Mr. Speaker, I move that the business in order on Calendar Wednesday be dispensed with.

THE SPEAKER:[17] The question is on the motion offered by the gentleman from Kentucky [Mr. May].

The question was taken; and two-thirds having voted in favor thereof, the motion was agreed to.

A motion to reconsider was laid on the table.

§ 4.39 The House rejected the motion to dispense with Calendar Wednesday business in order to consider conference reports.

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[14] 97 CONG. REC. 6816, 82d Cong. 1st Sess.

[15] Sam Rayburn (Tex.).

[16] 92 CONG. REC. 9153, 79th Cong. 2d Sess.

[17] Sam Rayburn (Tex.).

On July 10, 1946,(18) a motion to dispense with Calendar Wednesday business (made on Calendar Wednesday) was rejected:

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, I make a preferential motion. Mr. Speaker, we have several conference reports——

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a point of order; that is not a motion.

The Speaker:(19) The gentleman from Mississippi will state his motion.

Mr. Rankin: Mr. Speaker, I move that proceedings under Calendar Wednesday be dispensed with.

We have conference reports that should be considered.

The Speaker: The question is on the motion. . . .

So two-thirds not having voted in favor thereof, the motion was rejected.

Unanimous Consent to Dispense With Calendar Wednesday

§ 4.40 Calendar Wednesday business is customarily dispensed with by unanimous-consent request made at the conclusion of business on the preceding week.

The Majority Leader or Majority Whip announces, at the conclusion of the scheduled business for the week, the legislative program for the following week. Also at that time he makes a unanimous-consent request relative to Calendar Wednesday business on the following week:

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The Speaker Pro Tempore:(20) Is there objection to the request of the gentleman from Massachusetts?

There was no objection.(1)

§ 4.41 The Majority Leader was recognized, prior to the approval of the Journal, to ask unanimous consent to dispense with Calendar Wednesday business on that day.

On Sept. 19, 1962,(2) Majority Leader Carl Albert, of Oklahoma, was recognized before the approval of the Journal by Speaker John W. McCormack, of Massachusetts. Mr. Albert asked unanimous consent "that the business in order under the Calendar Wednesday rule may be dispensed with, today."

The request was objected to.

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18. 92 Cong. Rec. 8588, 8589, 79th Cong. 2d Sess.
19. Sam Rayburn (Tex.).
20. Neal Smith (Iowa).
1. 110 Cong. Rec. 11691, 88th Cong. 2d Sess., May 21, 1964 (request made by the Speaker in the absence of the Majority Leader and Whip).
2. 108 Cong. Rec. 19940, 87th Cong. 2d Sess.

§ 4.42 Calendar Wednesday business may be dispensed with by unanimous consent but not by motion before the approval of the Journal.

On Sept. 19, 1962,(3) Carl Albert, of Oklahoma, the Majority Leader, asked unanimous consent, before the reading and approval of the Journal, that Calendar Wednesday business on that day be dispensed with. Mr. Carl D. Perkins, of Kentucky, objected to the request. Mr. Albert then moved that Calendar Wednesday business be dispensed with, and Speaker John W. McCormack, of Massachusetts, ruled that the motion was not in order before the reading and approval of the Journal.

§ 5. District of Columbia Business

Rule XXIV clause 8(4) sets apart two days per month for the consideration of business called up by the Committee on the District of Columbia:

> The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only, shall, when claimed by the Committee on the District of Columbia, be set apart for the consideration of such business as may be presented by said committee.

The consideration of District business on the specified days is of qualified privilege, and is of equal privilege with a special order created for that day.(5) District business yields to privileged reports from the Committee on Rules,(6) motions to dispense with Calendar Wednesday business,(7) questions of the privileges of the House,(8) conference reports,(9) and motions to resolve into the Committee of the Whole for the consideration of revenue or appropriation bills.(10) Moreover, as indicated by Rule XXIV clause 8, motions to discharge committees (in order on the second and fourth Mondays, like District business)

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3. 108 Cong. Rec. 19940, 87th Cong. 2d Sess.
4. *House Rules and Manual* § 899 (1979).
5. See § 5.1, infra. See also 7 Cannon's Precedents §§ 877, 878.
6. See § 5.4, infra.
7. See § 5.5, infra.
8. See § 5.3, infra.
9. See 8 Cannon's Precedents § 3292.
10. See 6 Cannon's Precedents §§ 716–718; 7 Cannon's Precedents §§ 876, 1123. When the 21-day discharge rule relating to the Committee on Rules was in effect, such motions to discharge had precedence over District business (see § 5.2, infra).

and reference of matters on the Speaker's table take precedence over District business.(11)

District of Columbia business may be considered in the House as in Committee of the Whole by unanimous consent,(12) and private bills may be called up.(13)

Unfinished business on District Day does not come again before the House until the next District Day unless the previous question has been ordered; and unfinished District bills must be affirmatively called up by the Member in charge.(14)

District Day may be transferred to another day not specified in the rule, either by unanimous consent or by a special order.(15)

Precedence of District Business

§ 5.1 When a Member seeks recognition to call up District of Columbia business on the fourth Monday (privileged under Rule XXIV clause 8) and another Member seeks recognition to move to suspend the rules and agree to a Senate joint resolution amending the Constitution (privileged pursuant to a unanimous-consent agreement making it in order on the fourth Monday for the Speaker to recognize Members to move suspension and passage of bills), it is within the discretion of the Speaker as to which of the two Members he shall recognize.

On Aug. 27, 1962,(16) which was the fourth Monday of the month and therefore a day eligible for District of Columbia business, under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, recognized Mr. Emanuel Celler, of New York, to move to suspend the rules and pass a joint resolution (to amend the Constitution to prohibit the use of a poll tax as a qualification for voting) pursuant to a previous unanimous-consent request making in order on that day motions to suspend the rules. The Speaker overruled a point of order against prior recognition for the motion to suspend the rules:

> MR. CELLER: Mr. Speaker, I move to suspend the rules and pass Senate Joint Resolution 29, proposing an amendment to the Constitution of the

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11. Bills reported by the Committee on the District of Columbia do not have such privilege as to prevent their being called up on Calendar Wednesday during the call of committees. See 7 Cannon's Precedents § 937.
12. See §§ 5.7, 5.8, infra.
13. See §§ 5.8, 5.11, infra.
14. See §§ 5.13, 5.14, infra.
15. See § 5.12, infra.
16. 108 CONG. REC. 17654–70, 87th Cong. 2d Sess.

United States relating to qualifications of electors.

Mr. [Thomas G.] Abernethy [of Mississippi]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state his point of order.

Mr. Abernethy: Mr. Speaker, I make the point of order that this is District Day, that there are District bills on the calendar, and as a member of the Committee on the District of Columbia I respectfully demand recognition so that these bills may be considered.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, may I be heard on the point of order?

The Speaker: The Chair is prepared to rule, but the gentleman may be heard.

Mr. Albert: Mr. Speaker, by unanimous consent, suspensions were transferred to this day, and under the rules the Speaker has power of recognition at his own discretion.

Mr. Abernethy: Mr. Speaker, I respectfully call the attention of the chairman to clause 8, rule XXIV, page 432 of the House Manual. . . .

Mr. Speaker, I submit that rule is clear that when the time is claimed and the opportunity is claimed the Chair shall permit those bills to be considered.

Therefore, Mr. Speaker, I respectfully submit my point of order is well taken, and that I should be permitted to call up bills which are now pending on the calendar from the Committee on the District of Columbia.

Mr. [Howard W.] Smith of Virginia: Mr. Speaker, I should like to be heard on the point of order.

The Speaker: The Chair will hear the gentleman.

Mr. Smith of Virginia: Mr. Speaker, the rules of the House on some things are very clear, and the rules of the House either mean something or they do not mean anything.

Mr. Speaker, the gentleman from Mississippi [Mr. Abernethy], has just called to the Chair's attention clause 8 of rule XXIV. Nothing could be clearer; nothing could be more mandatory. I want to repeat it because I hope the Chair will not fall into an error on this proposition:

> The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only—

And that is all; that is all that you can consider—disposition of motions to discharge committees—

> and after the disposal of such business on the Speaker's table as requires reference only—

That is all that the Chair is permitted to consider.

Mr. Speaker, after that is done the day—

> shall when claimed by the Committee on the District of Columbia, be set apart for the consideration of such business as may be presented by said committee.

Mr. Speaker, I know that the majority leader bases his defense upon the theory that the House having given unanimous consent to hear suspensions on this Monday instead of last Monday when they should have been heard—and I doubt if very many Members were here when that consent order was made and I am quite sure that a great number of them had no notice that it was going to be made, and certainly I did not—now the majority leader undertakes to say that having gotten unanimous consent to consider this motion on this day to suspend the rules, therefore, it gives the Speaker carte blanche authority to do away with the rule which gives first consideration to District of Columbia matters.

Mr. Speaker, there was no waiver of the rule on the District of Columbia. That consent did not dispose or dispense with the business on the District of Columbia day. The rule is completely mandatory. The rule says that on the second and fourth Mondays, if the District of Columbia claims the time, that the Speaker shall recognize them for such dispositions as they desire to call.

THE SPEAKER: The Chair is prepared to rule.

Several days ago on August 14 unanimous consent was obtained to transfer the consideration of business under suspension of the rules on Monday last until today. That does not prohibit the consideration of a privileged motion and a motion to suspend the rules today is a privileged motion. The matter is within the discretion of the Chair as to the matter of recognition.

§ 5.2 When the "21-day rule" for the discharge of Committee on Rules resolutions was in effect in the 89th Congress, business called up under that rule was of the highest privilege and took precedence over District of Columbia business on District of Columbia Monday.

On Sept. 13, 1965,(17) which was District of Columbia Monday, Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry propounded by the Chairman of the Committee on the District of Columbia:

MR. [JOHN L.] MCMILLAN [of South Carolina]: A parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. MCMILLAN: Mr. Speaker, now that the Journal has been read and other business has been dispensed with, is it in order to call up District bills under the rules of the House?

THE SPEAKER: If the gentleman from New York [Mr. Powell] yields for that purpose.

MR. MCMILLAN: Mr. Speaker, has the gentleman from New York [Mr. Powell] been recognized?

THE SPEAKER: The Chair is going to recognize the gentleman from New York [Mr. Powell] because the gentleman from New York has the privileged matter.

The Chair recognizes the gentleman from New York.

Mr. Powell was recognized to call up, pursuant to then Rule XI clause 23 [Rule XI clause 4(b) in the 1979 *House Rules and Manual*], a resolution providing an order of business which had been pending before the Committee on Rules for more than 21 calendar days without being reported by that committee.(18)

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(17) 111 CONG. REC. 23606, 89th Cong. 1st Sess.

§ 5.3 A question of the privileges of the House may be raised pending the consideration of legislation called up by the Committee on the District of Columbia on the second and fourth Mondays of the month.

On Dec. 14, 1970,(19) which was District of Columbia Monday, Speaker John W. McCormack, of Massachusetts, recognized Mr. Richard H. Ichord, of Missouri, to raise a question of the privileges of the House (relating to a restraining order issued by a federal court against the printing and publishing of a report by the Committee on Internal Security) before recognizing Chairman John L. McMillan, of South Carolina, of the Committee on the District of Columbia, to call up District of Columbia business.

§ 5.4 On a District Day, the Speaker recognized a member of the Committee on Rules to call up a privileged resolution relating to the order of business, and later recognized the chairman of another committee to call up the business made in order thereby, prior to recognizing the Chairman of the Committee on the District of Columbia to call up District business under Rule XXIV clause 8.

On Sept. 24, 1962,(20) which was District of Columbia Day under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, first recognized Mr. William M. Colmer, of Mississippi, to call up by direction of the Committee on Rules House Resolution 804, making in order and providing for the consideration of Senate Joint Resolution 224, authorizing the President to call up armed forces reservists. The House having agreed to the resolution, the Speaker recognized Carl Vinson, of Georgia, Chairman of the Committee on Armed Services and manager of the joint resolution, to move that the House resolve itself into the Committee of the Whole for the consideration of the joint resolution, which was, after debate, agreed to by the House.

The Speaker then stated that it was District of Columbia Day and

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18. See also 111 Cong. Rec. 18076, 18087, 89th Cong. 1st Sess., July 26, 1965.

19. 116 Cong. Rec. 41355, 41374, 91st Cong. 2d Sess.

20. 108 Cong. Rec. 20489–94, 87th Cong. 2d Sess.

recognized Chairman John L. McMillan, of South Carolina, of the Committee on the District of Columbia, for District business.(1)

§ 5.5 A privileged motion to dispense with Calendar Wednesday business preceded District of Columbia business under Rule XXIV clause 8.

On June 11, 1973,(2) which was District of Columbia Monday, Mr. John J. McFall, of California, was first recognized by Speaker Carl Albert, of Oklahoma, to offer the privileged motion (under Rule XXIV clause 7) to dispense with Calendar Wednesday business, before Chairman John L. McMillan, of South Carolina, of the Committee on the District of Columbia was recognized to call up District business.

Consideration Generally

§ 5.6 Before the adoption of the requirement of a three-day layover for committee reports, the Speaker held that a bill reported by the Committee on the District of Columbia was privileged for consideration on the second and fourth Mondays irrespective of whether the report had been printed.

On July 8, 1968,(3) which was District of Columbia Monday, Mr. John V. Dowdy, of Texas, called up for consideration a District of Columbia bill which had been reported out the same day by the committee and on which the committee report was not yet printed. Under a reservation of the right to object, Mr. H. R. Gross, of Iowa, inquired whether it was in order to consider the bill. Speaker John W. McCormack, of Massachusetts, responded that in view of the fact that the committee had filed its report, it was in order to consider the bill. After the reading of the bill in the House as in the Committee of the Whole, Mr. Dowdy withdrew the bill from consideration.

Parliamentarian's Note: The decision of the Chair predated the 1971 amendment to the rules of the House in order to implement the Legislative Reorganization Act of 1970. Rule XI clause 27(d)(4) [Rule XI clause 2(l)(6) in the *House Rules and Manual* (1979)] now requires a three-day layover of committee reports before their consideration by the House, in order that printed reports be available to Members.

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1. *Id.* at p. 20521.
2. 119 Cong. Rec. 19028–30, 93d Cong. 1st Sess.
3. 114 Cong. Rec. 20057, 20058, 90th Cong. 2d Sess.

§ 5.7 District of Columbia bills, called up on District Day, if on the Union Calendar, may be considered by unanimous consent in the House as in Committee of the Whole or in the Committee of the Whole.

On Aug. 11, 1964,(4) which was District of Columbia Day, Mr. John V. Dowdy, of Texas, asked unanimous consent that a District of Columbia bill, pending on the Union Calendar, be considered in the House as in the Committee of the Whole; the request was objected to. He then moved that the House resolve itself into the Committee of the Whole for consideration of the bill and, pending that motion, asked unanimous consent that general debate on the bill be limited to one hour. The request was objected to, Speaker John W. McCormack, of Massachusetts, put the question on the motion, and the motion was rejected by the House.

Parliamentarian's Note: General debate in Committee of the Whole on District of Columbia bills is under the hour rule unless limited by the House or Committee of the Whole; on one occasion where such debate had not been limited in the House, the Chairman of the Committee of the Whole recognized five Members successively for one hour of debate each.(5)

§ 5.8 District of Columbia bills called up on District Day, if on the Private Calendar, may be considered by unanimous consent in the House as in Committee of the Whole.

On Apr. 24, 1972,(6) the House agreed to a unanimous-consent request for the consideration of a District of Columbia bill pending on the Private Calendar:

> MR. [WILLIAMSON SYLVESTER] STUCKEY [Jr., of Georgia]: Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 2895) to provide for the conveyance of certain real property in the District of Columbia to the National Firefighting Museum and Center for Fire Prevention, Incorporated, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.
>
> THE SPEAKER:(7) Is there objection to the request of the gentleman from Georgia?
>
> There was no objection.

Parliamentarian's Note: Private Calendar bills, when called up by unanimous consent, are considered under the five-minute rule in the Committee of the Whole House, and the form of the request in this instance was unnecessary.

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(4) 110 CONG. REC. 18949, 88th Cong. 2d Sess.

(5) 87 CONG. REC. 3917–39, 77th Cong. 1st Sess., May 12, 1941.

(6) 118 CONG. REC. 14000, 92d Cong. 2d Sess.

(7) Carl Albert (Okla.).

The Journal properly indicated in this instance that the Committee of the Whole House was discharged from consideration of the private bill when the bill was considered by unanimous consent in the House as in the Committee of the Whole.

§ 5.9 A bill called up by the Committee on the District of Columbia was refused consideration twice on the same day (by negative votes on the motion to resolve into Committee of Whole to consider the bill).

On June 14, 1937,[8] Speaker William B. Bankhead, of Alabama, announced that it was District of Columbia Monday. Mr. Vincent L. Palmisano, of Maryland, twice offered and the House twice rejected, motions that the House resolve itself into the Committee of the Whole for the consideration of H.R. 7472, to provide additional revenue for the District of Columbia.

§ 5.10 The House struck out the enacting clause of a bill called up on District of Columbia Day being considered in the House as in the Committee of the Whole.

On Apr. 28, 1941,[9] H.R. 4342, to authorize black-outs in the District of Columbia, was being considered in the House as in the Committee of the Whole. Mr. Dewey Short, of Missouri, moved that the enacting clause be stricken from the bill, which was agreed to.

Parliamentarian's Note: The motion to strike out the enacting clause of a bill is classified among those motions applicable only in the Committee of the Whole [Rule XXIII clause 7], although the motion was in earlier times utilized in the House as well [see *House Rules and Manual* § 876 (1979)]. The motion is in order in the House only during the amendment stage [i.e., in the House as in the Committee of the Whole] and takes precedence only over the motion to amend [see also Rule XVI clause 4 for other privileged motions in the House].

Private Bills

§ 5.11 It is in order on District of Columbia Monday for the Committee on the District of Columbia to call up bills on the Private

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[8] 81 Cong. Rec. 5667, 5668, 75th Cong. 1st Sess.

[9] 87 Cong. Rec. 3352, 77th Cong. 1st Sess.

Calendar which have been reported by that committee.

On May 26, 1930,(10) which was District of Columbia Monday, Mr. Clarence J. McLeod, of Michigan, of the Committee on the District of Columbia asked unanimous consent to take up a bill; Speaker pro tempore Carl R. Chindblom, of Illinois, ruled, in response to a reservation of the right to object, that unanimous consent was not required and that the matter was privileged:

Mr. [William H.] Stafford [of Wisconsin]: Reserving the right to object, I note that the bill bears Calendar No. 672 on the Private Calendar. On Saturday last we got as far as Calendar No. 500. I do not question but that this bill will be reached in the regular order on call of that calendar.

The Speaker Pro Tempore: The Chair will state that while the gentleman from Michigan asked unanimous consent to take up the bill, the Chair did not put the request in that manner. The gentleman is privileged on District day to call up a bill on the Private Calendar.

Mr. Stafford: I hope that the gentleman will not press it for the reason that it has not been the practice for a committee on the day it has to bring up legislation to bring up private bills. I would like to have the matter go over.

Mr. McLeod: I called up the bill by agreement with several Members of the House.

The Speaker pro tempore cited 4 Hinds' Precedents § 3310 for the proposition that unanimous consent was not required and that the bill could be brought up by motion.

Transferring District of Columbia Day

§ 5.12 By unanimous consent (or by a special order) the House may make in order on certain days, which are not District of Columbia days under Rule XXIV clause 8, the consideration of District of Columbia bills, such consideration to be either under the general rules of the House or under the normal procedures for District of Columbia business.

On Dec. 3, 1970,(11) the House agreed to a unanimous-consent request relating to the order of business:

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I ask unanimous consent that it shall be in order, on Wednesday or any following day next week, to call up for consideration under the general rules of the House the bill (H.R. 19885) to provide additional revenue for the District of Columbia, and for other purposes.

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10. 72 Cong. Rec. 9607, 71st Cong. 2d Sess.

11. 116 Cong. Rec. 39843, 91st Cong. 2d Sess.

THE SPEAKER:(12) Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The following unanimous-consent request was agreed to on May 25, 1960:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I ask unanimous consent that on Wednesday of next week it may be in order for the Speaker to recognize the chairman of the Committee on the District of Columbia or any member thereof to consider as under District of Columbia Day, one bill, H.R. 12063, to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport to the District of Columbia system.

This has been cleared with the ranking member of the Committee on the District of Columbia and the minority leader.(13)

On one occasion, District of Columbia business was by unanimous consent transferred from Monday to the following day due to the death of a Member (John B. Bennett, of Michigan).(14)

Unfinished Business

§ 5.13 Business unfinished on District of Columbia Day does not come up until the next day on which that business is in order.

On June 26, 1939,(15) the Committee of the Whole was considering District of Columbia business brought up on District of Columbia Day. Chairman Fritz G. Lanham, of Texas, answered a parliamentary inquiry as to the effect on the pending bill should the Committee rise without completing the bill on that day:

MR. [WALTER G.] ANDREWS [of New York]: Mr. Chairman, I move that the Committee do now rise.

MR. [KENT E.] KELLER [of Illinois]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. KELLER: Mr. Chairman, what would be the effect on this bill if we should vote to rise?

THE CHAIRMAN: It would be the unfinished business of the Committee on the District of Columbia on the next day that committee is called.

MR. KELLER: What day would that be?

THE CHAIRMAN: The second and fourth Monday of each month are District days.

MR. KELLER: If we want present

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(12) John W. McCormack (Mass.).

(13) 106 CONG. REC. 11116, 86th Cong. 2d Sess.

(14) 110 CONG. REC. 18854, 88th Cong. 2d Sess., Aug. 10, 1964.

(15) 84 CONG. REC. 7927, 7928, 76th Cong. 1st Sess.

consideration of this bill we will have to vote against the motion?

The Chairman: I think the membership is sufficiently informed with reference to the motion. The question is on the motion to rise.

§ 5.14 Unfinished business on a District of Columbia Monday does not come up automatically when that class of business is again in order but may be called up by a Member in charge of the legislation.

On May 9, 1932,(16) Speaker John N. Garner, of Texas, answered a parliamentary inquiry on the order of business on District of Columbia Monday:

> Mrs. [Mary T.] Norton [of New Jersey]: Mr. Speaker, I ask unanimous consent to call up concurrent resolution (S. Con. Res. 27), and yield five minutes to the gentleman from Ohio, Mr. (Byron B.) Harlan, to offer an amendment thereto.
>
> Mr. [William H.] Stafford [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.
>
> Mr. Stafford: Mr. Speaker, on the last day given over to District business, House Joint Resolution 154, providing for a merger of the street-railway systems in the District of Columbia, was the unfinished business. As this joint resolution was the unfinished business when the District Committee last had the call, is it not the unfinished business when the House resumes consideration of District business?
>
> The Speaker: The Chair thinks not, because a motion to consider it is necessary. Wherever a motion is required, the unfinished business has no precedence over any other business.

Form of Special Rule

§ 5.15 Form of special rule providing for the consideration of a District of Columbia bill in the Committee of the Whole House on the state of the Union, waiving points of order, closing general debate on the bill, waiving the second reading, opening all sections of the bill for amendment, and limiting debate under the five-minute rule to an hour and a half.

The following resolution was considered on Apr. 17, 1936:(17)

> House Resolution 489
>
> *Resolved*, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 11563, a bill declaring an emergency in the housing condition in the District of Columbia; creating a Rent Commission for the District of Columbia; prescribing powers and

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16. 75 Cong. Rec. 9836, 72d Cong. 1st Sess.

17. 80 Cong. Rec. 5634, 74th Cong. 2d Sess.

duties of the commission, and for other purposes; and all points of order against said bill are hereby waived. General debate on said bill shall be considered as closed, and the bill shall be considered as having been read the second time. Amendments may be offered to any section of the bill, but debate under the 5-minute rule shall be closed within one hour and a half. At the conclusion of the consideration of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion, except one motion to recommit with or without instructions.

§ 6. One-minute Speeches

Although not provided for in the order of business specified in the rules of the House, one-minute speeches, for the purpose of debate only, are usually entertained by the Speaker immediately following the approval of the Journal and before any legislative business.(18) Members obtain recognition for one-minute speeches by requesting unanimous consent to address the House for one minute; speeches made under the procedure may not exceed one minute or 300 words (if the word-limit is exceeded, the speech will be printed in the Extensions of Remarks or Appendix of the Record).(19) One-minute speeches are distinguished from "special-order" speeches, which may extend up to one hour and which follow the legislative program of the day.(20)

The normal procedure for one-minute speeches may be varied where necessary; such speeches may, for example, exceed one minute, in the discretion of the Speaker, when no legislative business is scheduled.(1) And the Speaker may decline to recognize for one-minute speeches before proceeding to pressing business.(2) The Speaker has on occasion recognized for one-minute speeches after business has

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18. For discussion of the evolution of the practice of allowing one-minute speeches, see § 6.1, infra. For discussion of the principle that orders to address the House for more than one minute must follow the legislative business of the day, see § 7.1, infra.

19. See § 6.1, infra. See also Ch. 29, infra (consideration and debate) and Ch. 5, supra (discussing the *Congressional Record*), for the relationship of one-minute speeches to recognition, debate, and the printing of the *Congressional Record.*

20. See § 7, infra.

1. See §§ 6.1, 6.5, infra.

2. See §§ 6.6, 6.7, infra.

been conducted, where circumstances so permitted.(3)

Generally, the "one-minute rule" is followed on each day that the House is in session, in order to give Members the opportunity to express themselves on a variety of subjects while no business is under discussion.

In Order Before Legislative Business

§ 6.1 The Speaker discussed in the 79th Congress the modern practice permitting speeches of up to one minute following the approval of the Journal and before the legislative business of the day, and the practice of allowing such speeches to extend beyond one minute where no legislative business is scheduled.

On Mar. 6, 1945,(4) Speaker Sam Rayburn, of Texas, responded to a parliamentary inquiry on the place of "one-minute" speeches in the order of business:

> THE SPEAKER: The Chair can reiterate what he has said many times. If he can go back, there was a time here when Members rose the day before and asked unanimous consent that after the approval of the Journal and disposition of matters on the Speaker's desk they might proceed for 20 minutes or 30 minutes or an hour. As chairman of a committee in those days I would sit here ready to go along with my bill, and probably it would be 3 o'clock in the afternoon before legislation was reached.
>
> When I became majority leader, I made the statement to the House, after consulting with the minority leader, who I think at that time was Mr. Snell, of New York, that if anyone asked to proceed for more than 1 minute before the legislative program of the day was completed we would object. Since then Members have not asked to proceed for more than a minute before the legislative program.
>
> Then Members began speaking for a minute and putting into the Record a long speech, so that 10 or a dozen pages of the Record was taken up before the people who read the Record would get to the legislative program of the day, in which I would think they would be the most interested. So we adopted the policy—there is no rule about it—of asking that when Members speak for a minute, if their remarks are more than 300 words, which many times can be said in a minute, their remarks or any extension of their remarks go in the Appendix of the Record. The Chair has on numerous occasions spoken to those who control the Record and asked them to follow that policy.
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> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I take issue of course with that policy, because these 1-minute speakers do not abuse the Record, as a rule. The only question

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3. See § 6.3, infra.
4. 91 CONG. REC. 1788, 1789, 79th Cong. 1st Sess.

that has been raised about any abuse of the Record in regard to these 1-minute speeches was with reference to a speech made on the 5th of February, I believe, wherein the 1-minute speaker used several pages.

The Speaker: The Chair might state also that when there is no legislative program in the House for the day, such speeches may go in, and they will go in as 1-minute speeches.

Mr. [Daniel A.] Reed of New York: Mr. Speaker, verifying the statement, which, of course, needs no verification, I remember going to the Speaker and asking if it would be proper to put the speech in the body of the Record, and the Speaker said that there was no legislative program for the day and there was no reason why a Member could not do it. I assume that was on the 5th of February.

The Speaker: That is correct.

Mr. Rankin: Let me say to the gentleman from New York that on yesterday one of the Members made a speech that you will find in the Record almost or quite as long as the speech of the gentleman from Nevada [Mr. Bunker], or the one of the gentleman from Arkansas [Mr. Gathings], or the one that I made. It was placed in the body of the Record, and it was in excess of 300 words. I can go back through the Record here and find numerous occasions.

If we are going to adopt the policy that everybody who speaks in the well of the House and uses over 300 words must have his speech printed in the Appendix, it should apply to all of us.

I notice sometimes the Presiding Officer occasionally allows some people more than a minute. Some people have long minutes. We had one rise to speak the other day. I drew my watch. I believe it was 3 minutes. If you will check back you will find every word of it went in the body of the Record. I think this should be a matter to be settled by the membership of the House. Where they make these 1-minute speeches with the right to extend their own remarks, it should go in the body of the Record and not be shifted to the Appendix of the Record to make it appear as if it were an extension of remarks.

The Speaker: The House has that within its entire control at any time it desires to act upon the question.

The practice regarding such speeches was also discussed on Feb. 6, 1945 (Speaker Rayburn presiding):(5)

Mr. [Robert F.] Rich [of Pennsylvania]: I wish to ask the Chair how it is that if a Member on this side asks for a minute in which to address the House he is permitted to insert 300 words or less, but that when some Members on the other side of the aisle make similar requests they are permitted to put in 7½ pages, or some 8,000 words? How does the discrimination come about?

The Speaker: There is no discrimination because there was no legislative program on yesterday and anyone had the right to extend his remarks "at this point" in the Record.

Mr. Rich: I am glad to hear that.

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5. *Id.* at pp. 839–41.

THE SPEAKER: There is no discrimination; that has been the custom for several years. The gentleman will learn it now if he does not already know it from previous rulings of the Chair. . . .

MR. RANKIN: The question has been raised by two Members, the gentleman from Pennsylvania [Mr. Rich] and the gentleman from Michigan [Mr. Hoffman] about certain matter that was inserted in the Record on yesterday, by another Member. The contention has been made that it was in violation of the rules of the House.

May I ask the Speaker if it would not be the proper procedure, if any Member feels that the rule has been violated, for him to make a point of order against the insertion, and if his point of order is sustained, then to move to strike the matter from the Record?

THE SPEAKER: That could be done. Let the Chair explain the whole situation.

In the first place, the 1-minute rule was adopted in order that no Member could proceed for more than 1 minute prior to the business of the day on any day when there was a legislative program. The Chair has instructed the official reporters that if such a 1-minute speech and whatever extension is made of it amounts to more than 300 words, it must appear in the Appendix of the Record.

As to the matter on yesterday, when a Member asks unanimous consent to extend his remarks in the Record, whether or not he addresses the House in connection therewith and whether or not there is a legislative program for that day, if the extraneous matter covers more than two pages it is the duty of the Public Printer under regulation promulgated by the Joint Committee on Printing to return it, unless the Member having first obtained an estimate of the cost from the Public Printer and included that estimate in his request, has obtained the unanimous consent of the House that the whole extension may be included in the Record. The Chair has tried to enforce the 300-word rule, and intends to, but he does not have any way of looking into what goes to the Printing Office in the extension of remarks.

Parliamentarian's Note: When there is a legislative program for the day, any one-minute speeches which contain more than 300 words are printed in the *Congressional Record* following the business of the day or in the Appendix.(6) And extensions of remarks on one-minute speeches are not printed at that point in the Record where there is a legislative program for the day, but in the Appendix of the Record.(7)

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6. See Speaker Rayburn's announcement of Jan. 17, 1949, 95 CONG. REC. 403, 81st Cong. 1st Sess.

7. 84 CONG. REC. 8779, 76th Cong. 1st Sess., July 10, 1939; and 84 CONG. REC. 7108, 76th Cong. 1st Sess., June 13, 1939.

See also the statement of Majority Leader Rayburn on June 10, 1939, 84 CONG. REC. 6949, 6950, 76th Cong. 1st Sess., that he would thereafter object to extensions of remarks "at this point in the Record"

§ 6.2 The Speaker stated that when Members are recognized after approval of the Journal to extend remarks and to proceed for one minute and then a point of order of no quorum is made to start the consideration of legislation, it is not proper to begin over again recognition to extend remarks and proceed for one-minute speeches.

On Mar. 7, 1941,(8) Speaker Sam Rayburn, of Texas, made a statement as to one-minute speeches:

> Let the Chair make a statement. When the House meets and Members are recognized to extend their remarks or to proceed for 1 minute and all who are on the floor and so desire have been recognized, and then a point of no quorum is made in order to start the business of legislation for the day, the Chair thinks it is hardly proper to begin all over again in recognizing Members to extend their own remarks or to proceed for 1 minute, but the Chair will recognize the gentleman from Massachusetts [Mr. Gifford].

§ 6.3 While one-minute speeches are normally entertained at the beginning of the legislative day, immediately following the approval of the Journal, the Speaker sometimes recognizes Members to proceed for one minute after business has been conducted.

On Oct. 15, 1969,(9) one-minute speeches had been concluded following the approval of the Journal and Speaker John W. McCormack, of Massachusetts, had recognized several Members for business requests by unanimous consent before recognizing Mr. Spark M. Matsunaga, of Hawaii, to call up the first scheduled legislative business of the day. Before Mr. Matsunaga took the floor, Mr. Arnold Olsen, of Montana, rose to a question of personal privilege and asked for recognition to proceed for one minute, in order to respond to the last one-minute speech. The Speaker recognized him for a one-minute speech (rather than ruling on a question of personal privilege).

§ 6.4 The rule (Rule XXVII clause 4) providing that motions to discharge committees shall be in order "immediately" after the reading of the Journal on the second and fourth Mondays was construed not to prohibit the Speaker from recognizing for unanimous-consent requests (including one-minute speeches) prior to recognition for an eligible motion to discharge.

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where a Member has addressed the House for one minute before the legislative program of the day.

8. 87 Cong. Rec. 2008, 77th Cong. 1st Sess.

9. 115 Cong. Rec. 30080, 91st Cong. 1st Sess.

On Oct. 12, 1942,[10] which was the second Monday of the month and therefore a day, under Rule XXVII clause 4,[11] eligible for motions to discharge committees, Mr. Joseph A. Gavagan, of New York, called up such a motion to discharge. Mr. Howard W. Smith, of Virginia, made a point of order against the consideration of the motion on the ground that the rule required such motions to be brought immediately after the reading of the Journal, and that a variety of unanimous-consent requests (including sending bills to conference and administering the oath to a new Member) had been entertained before the motion was called up. Speaker Sam Rayburn, of Texas, overruled the point of order:

> THE SPEAKER: The Chair is ready to rule.
>
> The Chair anticipated certain points of order both today and tomorrow. He has ruled with reference to the point of order made by the gentleman from Alabama.
>
> The Chair recognized all the time that the word "immediately" is in this rule, as he has read the rule every day for the past 6 days.
>
> In ruling on a matter similar to this some time ago, the Chair had this to say, although the matter involved was not exactly on all-fours with this point of order, but it is somewhat related:
>
> > The Chair thinks the Chair has a rather wide range of latitude here and could hold, being entirely technical, that a certain point of order might be sustained.
>
> The Chair is not going to be any more technical today than he was at that time. The Chair recognized the gentleman from North Carolina [Mr. Doughton] on a highly important matter in order to expedite the business of the Congress, not only the House of Representatives but the whole Congress.
>
> The Chair does not feel that the intervention of two or three unanimous-consent requests would put him in a position where he could well hold that the word "immediately" in the rule was not being followed when he recognized the gentleman from New York [Mr. Gavagan].
>
> The Chair holds that in recognizing the gentleman from New York [Mr. Gavagan] when he did, he was complying with the rule which states that it shall be called up immediately upon approval of the Journal.
>
> The Chair therefore overrules the point of order made by the gentleman from Virginia [Mr. Smith].

When No Business Is Scheduled

§ 6.5 The Speaker pro tempore announced that he would recognize Members to address the House for longer than one minute (up to one hour) on a day where the House had no scheduled business

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10. 88 CONG. REC. 8066, 8067, 77th Cong. 2d Sess.

11. *House Rules and Manual* § 908 (1979).

pending the filing of conference reports.

On Dec. 16, 1971,[12] Speaker pro tempore J. Edward Roush, of Indiana, made an announcement relative to the order of business and one-minute speeches:

> The Speaker Pro Tempore: The Chair would advise Members that since there is no legislative business before the House, if Members desire to speak for more than 1 minute, the Chair will recognize them for that purpose.

Parliamentarian's Note: The Speaker generally refuses recognition for extensions of one-minute speeches when legislative business is scheduled,[13] but the evaluation of the time consumed is a matter for the Chair to determine and is not subject to question or challenge by parliamentary inquiry.[14]

When Not Entertained

§ 6.6 Recognition for one-minute speeches is within the discretion of the Speaker, and when the House has a heavy legislative schedule, he sometimes refuses to recognize Members for that purpose.

On Oct. 19, 1966,[15] Speaker John W. McCormack, of Massachusetts, made a statement on the order of business, following the approval of the Journal and the receipt of several messages from the Senate and President:

> The Chair will receive unanimous-consent requests, after the disposition of pending business.
>
> The unfinished business is the vote on agreeing to the resolution (H. Res. 1062) certifying the report of the Committee on Un-American Activities as to the failures of Jeremiah Stamler to give testimony before a duly authorized subcommittee of said committee.
>
> The Clerk read the title of the resolution.

On June 17, 1970,[16] Speaker McCormack in responding to a statement by Mr. H. R. Gross, of Iowa, relative to the fact that the Speaker had declined to recognize for one-minute speeches before legislative business on that day, stated as follows:

> The Chair will state to the gentleman from Iowa that earlier in the day the Chair did make the statement that the

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[12] 117 Cong. Rec. 47429, 92d Cong. 1st Sess.

[13] 117 Cong. Rec. 13724, 92d Cong. 1st Sess., May 6, 1971; and 116 Cong. Rec. 42192, 42193, 91st Cong. 2d Sess., Dec. 17, 1970.

[14] 118 Cong. Rec. 16288, 92d Cong. 2d Sess., May 9, 1972.

[15] 112 Cong. Rec. 27640, 89th Cong. 2d Sess.

[16] 116 Cong. Rec. 20245, 91st Cong. 2d Sess.

Chair would not entertain unanimous-consent requests for 1-minute speeches to be delivered until later on in the day.

I am sure that the gentleman from Iowa clearly understood that statement on the part of the Speaker. At that particular time the Chair stated that the Chair would recognize Members for unanimous-consent requests to extend their remarks in the Record or unanimous-consent requests to speak for 1 minute with the understanding that they would not take their time but would yield back their time.

I think the Chair clearly indicated that the Chair would recognize Members for that purpose at a later time during the day. As far as the Chair is concerned the custom of the 1-minute speech procedure is adhered to as much as possible because the Chair thinks it is a very healthy custom.

The Chair had the intent, after the disposition of the voting rights bill, to recognize Members for 1-minute speeches or further unanimous-consent requests if they desired to do so.

On July 22, 1968,(17) Speaker McCormack discussed, from the floor, recognition for one-minute speeches:

Mr. [Leslie C.] Arends [of Illinois]: Might I throw out a suggestion here that may or may not have merit in the eyes of the distinguished Speaker—I do not know. But it seems to me that every day we start early for one reason or another almost an hour is gone before we get down to the legislative process.

Would it be proper if Members were permitted to extend their remarks and make their 1 minute speeches at the end of the legislative day in order that we might just get started right away on the legislative program when we meet.

Mr. McCormack: I call the 1-minute period "dynamic democracy." I hesitate to take away the privilege of a Member as to speaking during that period and it has become a custom and a practice of the House. I think it is a very good thing to adhere to that custom and practice.

It is only on rare occasions that Members have not been recognized for that purpose. How would the gentleman feel if he had a 1-minute speech to make and he had sent out his press release and then found out that the Speaker was not going to recognize him? Surely, I think, the gentleman would feel better if the Speaker did recognize him; would he not?

Mr. Arends: According to a person's views—I think it would be the reverse.

Mr. McCormack: Does the gentleman mean at the end of the day?

Mr. Arends: You said that this might be "dynamic democracy." I would rather it would be started when we have the time rather than be started at noon.

Mr. McCormack: It is an integral part of the procedure of the House and I like to adhere to it. Very seldom have I said to Members that I will accept only unanimous-consent requests for extensions of remarks. I hesitate to

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17. 114 Cong. Rec. 22633, 22634, 90th Cong. 2d Sess.

do it. I think every Member realizes that I am trying to protect their rights. . . .

Mr. [Durward G.] Hall [of Missouri]: I thank the gentleman for yielding.

I think the question is not that of eliminating the 1-minute speeches after the Members have their news releases out. But it is a question of not going back after the second or third rollcall and rerecognizing speeches. In this connection does "dynamic democracy" mean the same thing as benign but beneficial dictatorship—which does have merit?

Mr. McCormack: The gentleman from Missouri has raised a very interesting question. Many times I have said to myself, I am going to announce that the 1-minute speeches will have to be at 12 o'clock and not thereafter. But I have not come to the making of that resolution because I just could not bring myself to it. It is somewhat late in this session to do it and when, of course, we Democrats control the House in the next Congress, and I hope I will be Speaker, then I might do it. I am not promising it, but I may do it. But there is something to what the gentleman from Missouri says.

§ 6.7 The Speaker refused to recognize for one-minute speeches before proceeding with a special-order speech eulogizing a deceased Member.

On July 13, 1967,(18) Speaker John W. McCormack, of Massachusetts, before recognizing Mr. Glenard P. Lipscomb, of California, for a special-order speech (before legislative business) eulogizing deceased Member J. Arthur Younger, of California, made the following announcement:

> The Chair will not receive unanimous-consent requests at this time, except for Members making a unanimous-consent request for committees to sit during general debate today.

Recognition for Debate Only

§ 6.8 The Minority Leader having been recognized to proceed for one minute and in that time having asked unanimous consent for the consideration of a bill, the Speaker held that the gentleman was not recognized for that purpose.

On Jan. 26, 1944,(19) Speaker Sam Rayburn, of Texas, held that recognition for a one-minute speech was limited to that purpose:

> Mr. [Joseph W.] Martin [Jr.] of Massachuetts: Mr. Speaker, I ask unanimous consent to proceed for 1 minute.
>
> The Speaker: The Chair will not recognize any other Member at this time for that purpose but will recog-

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(18) 113 Cong. Rec. 18639, 90th Cong. 1st Sess.

(19) 90 Cong. Rec. 746, 747, 78th Cong. 2d Sess.

nize the gentleman from Massachusetts.

Mr. Martin of Massachusetts: Mr. Speaker, I appreciate the generosity of the Chair.

I take this minute, Mr. Speaker, because I want to make a unanimous consent request and I think it should be explained.

I agree with the President that there is immediate need for action on the soldiers' vote bill. A good many of us have been hoping we could have action for the last month. To show our sincerity in having action not next week but right now, I ask unanimous consent that the House immediately take up the bill which is on the Union Calendar known as S. 1285, the soldiers' voting bill.

The Speaker: The gentleman from Massachusetts was not recognized for that purpose.

The Chair recognizes the gentleman from Kentucky.

§ 7. Special-order Speeches

Like one-minute speeches, special-order speeches are not specifically provided for by the rules of the House. Special orders to address the House (for the purpose of debate only) may extend up to one hour and must follow the legislative business for the day.(1) Such speeches must be distinguished from one-minute speeches, which under normal practice are limited to one minute and precede the legislative business of the day.(2) The order of special-order speeches may be varied. For example, where further legislative business is scheduled but is not yet ready for consideration, the Speaker may recognize for special-order speeches with the understanding that legislative business will be resumed.(3) Once special orders have begun, the Speaker generally declines to recognize for legislative business, although there is no rule to prohibit the resumption of business.(4)

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1. For discussion of the evolution of the present practice as to special-order speeches, see § 7.1, infra.

Special-order speeches are strictly limited to one hour (see § 7.5, infra).

For further discussion of special-order speeches as related to recognition and debate, see Ch. 29, infra. And for discussion of the recently adopted prohibition on points of no quorum during special-order speeches, see supplements to this edition.

2. On occasion, one-minute speeches have followed the legislative business (see § 6.3, supra) and where there is no legislative business, one-minute speeches, like special orders, have extended for one hour (see § 6.5, supra).
3. See §§ 7.3, 7.4, infra.
4. See § 7.4, infra.

House Rule XV, clause 6, as amended in the 93d Congress (Apr. 9, 1974, H. Res. 998), now prohibits

Special orders are taken up in the sequence in which they were requested; that sequence may be varied, or special orders for one day rescheduled to another day, by unanimous consent.(5)

Special orders to address the House may be requested either on the day of delivery or on a day in advance.

In Order After Legislative Business

§ 7.1 Under the modern procedure of the House, special orders of Members to address the House for more than one minute follow the conclusion of the legislative program of the day and may not preempt business which is privileged under the rules.

On Apr. 20, 1937,(6) Majority Leader Sam Rayburn, of Texas, indicated the future procedure to be followed for conducting special-order speeches:

> MR. RAYBURN: Mr. Speaker, we find ourselves in this situation today, and it has been the situation several times since the Congress met. Unanimous consent has been secured by different gentleman to speak on a certain day. Today we have an hour and forty-five minutes set aside for addresses immediately after disposition of matters on the Speaker's table. Hereafter I shall be called upon, when gentlemen get unanimous consent to speak on a day certain, to request that those unanimous consents shall be subject to matters like conference reports, privileged bills, and I think I may add special rules from the Committee on Rules. Today, as I have said, we have an hour and forty-five minutes devoted to addresses. There is a rule on the table which a great many Members think important, and I think the House is in favor of it. I am serving notice to this effect so that, if I have to make these conditions hereafter, Members will understand why they are made.(7)

On June 3, 1937,(8) Speaker William B. Bankhead, of Alabama, ruled that a privileged report from the Committee on Rules took precedence over special-order speeches which had been obtained

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points of order of no quorum when the Speaker is recognizing Members to address the House under special orders with no measure pending.

5. See §§ 7.7, 7.8 (rescheduling) and §§ 7.10–7.12 (varying sequence), infra.

6. 81 Cong. Rec. 3645, 75th Cong. 1st Sess.

7. See also 84 Cong. Rec. 125, 76th Cong. 1st Sess., Jan. 5, 1939, where Majority Leader Rayburn announced the policy of objecting to requests to address the House unless the address would follow the completion of the legislative program for the day.

8. 81 Cong. Rec. 5307, 75th Cong. 1st Sess.

for that day, and the practice of special-order speeches was discussed:

Mr. [John J.] O'Connor of New York: Mr. Speaker, I call up House Resolution 216.

The Speaker: The gentleman from New York calls up a resolution, which the Clerk will report.

Mr. [Carl E.] Mapes [of Michigan]: Mr. Speaker, a point of order.

Mr. [Bertrand H.] Snell [of New York] rose.

The Speaker: Does the gentleman from Michigan desire to raise the point of order?

Mr. Mapes: I simply wanted to call the attention of the Chair to the fact that there are some special orders on the calendar.

The Speaker: All special orders are contingent upon being called after the disposition of privileged matters.

Mr. Mapes: The calendar of today does not so indicate, and that is the only point I have in mind.

Mr. Snell: Mr. Speaker——

The Speaker: For what purpose does the gentleman from New York rise?

Mr. Snell: Mr. Speaker, I make the point of order that the special orders are in order at this time in preference to a resolution from the Committee on Rules.

Mr. O'Connor of New York: Mr. Speaker——

The Speaker: For what purpose does the gentleman from New York rise?

Mr. O'Connor of New York: On the point of order, Mr. Speaker. This question has been raised several times, and I have forgotten the date, but the Record will show that the Chair announced that from then on all special orders for addresses would be subject to, and would follow, any privileged matters to be brought up on that day.

Mr. Snell: Then, if there has been a ruling of the Chair, it should so state on the calendar that has been printed for today.

The Speaker: The Chair thinks it proper to state in regard to the point of order raised by the gentleman from New York, that a good many days ago, in fact, several weeks ago, the Chair stated, not only once but probably two or three times, that where special orders were agreed to for gentlemen to address the House the understanding upon the part of the Chair would be that they should follow, and not precede, privileged matters that might be subject to be brought up by the House leadership or the Committee on Rules.

In this particular instance the Record of May 27, at page 6604, shows that the gentleman from Pennsylvania [Mr. Rich] submitted a request to speak today, as the Chair understands it. and the gentleman from Texas [Mr. Rayburn], the majority leader, said:

> Mr. Speaker, reserving the right to object, I must, of course, ask that the gentleman's time come after the disposition of privileged matters, such as conference reports, special rules, and so forth.

And the gentleman from Pennsylvania [Mr. Rich] said:

> I understand that.

So the gentleman evidently acquiesced in that statement.

Mr. Snell: I think the Chair is right about that.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rankin: Does that mean that hereafter when there are special orders for gentlemen to speak, that if the Committee on Rules wants to consider any bill, it takes precedence over the special orders.

The Speaker: That is the statement made by the Chair and acquiesced in by the House. It is a matter entirely with the House, of course, if an appeal is taken from that decision.

Mr. O'Connor of New York: Mr. Speaker, will the gentleman yield?

Mr. Rankin: I yield to the gentleman from New York, if I have the floor.

Mr. O'Connor of New York: Of course, Rules Committee never call up a rule without first consulting the Speaker and the majority leader.

Mr. Rankin: I understand. Here is what I am driving at. It certainly is not my view, and I doubt if it is the view of the House, that the Rules Committee can bring in a rule to consider any legislation and take a Member off the floor who has obtained unanimous consent to address the House. If that is the case, it simply means that the House is subservient to the Rules Committee so far as these special orders are concerned.

Mr. [Sam] Rayburn [of Texas]: Mr. Speaker, will the gentleman yield? I think this ought to be settled.

Mr. Snell: That is the reason that I raised this point at this time.

Mr. Rankin: I thank the gentleman from New York.

Mr. Rayburn: Mr. Speaker, being in the position that I am, I have to try to protect the program of the House. At least three times when unanimous consent has been requested I have made the statement that at all times I would object unless it were understood that the time asked for would come after conference reports, privileged bills, and special rules.

Mr. Rankin: Let me ask the gentleman from Texas this question. There are at least three or four gentlemen who have special orders to speak today. If the Committee on Rules steps in under these orders and takes up the remainder of the afternoon, does that mean that these gentlemen shall have this time tomorrow?

Mr. Rayburn: No; it does not.

Mr. Rankin: Does it mean entirely taking the time away from them?

Mr. Rayburn: That is it.

On June 7, 1937, a colloquy took place on the place of special-order speeches in the business of the House:

The Speaker [William B. Bankhead]: The gentleman propounds a parliamentary inquiry which is of some importance to the Chair. It is not the province of the Chair to undertake to say under what circumstances Members shall be allowed to address the House. The Chair thinks at this point there should be a firm decision and determination with reference to the particular question raised by the gentleman from New York. This matter arose a few days ago in the House, and the Chair stated at that time it was his understanding that all these consents which have recently been obtained have been based upon the premise that they would not be in order if there were a regular calendar call or if there were privileged matters which it was desired to call up before the speeches were made. Therefore, for the guidance of the Chair, the Chair thinks this matter ought to be definitely determined once and for all, in as much as the question has been raised.

Mr. Rankin: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rankin: Would it not require an amendment to the rules of the House to establish a rule on this question? The far-reaching attitude assumed the other day would certainly amount to a change in the rules of the House, which must be submitted to the membership in written form. . . .

The Speaker: In reply to the parliamentary inquiry of the gentleman from Mississippi [Mr. Rankin] the Chair is of the opinion it would not require a change of the rules to effectuate the procedure which has been suggested, but the Chair upon reflection is of the opinion that if a request is made such as the gentleman from New York [Mr. Dickstein] has just made, that on Calendar Wednesday after the call of the committee having the call, he may be permitted to address the House for 10 minutes, the Chair would feel it to be his duty under such an agreement to recognize the gentleman from New York for 10 minutes.

The Chair desires to make the further observation, that this is a matter entirely within the control of the membership of the House. The leadership of the House or any individual Member may interpose at the time such a request is made the condition that the request shall follow privileged business. In order to protect the Chair and to remove from the shoulders of the Chair any responsibility with respect to saying what are privileged matters and what matters should be considered, the Chair thinks it only proper that that rule should be established.

Mr. Rayburn: Mr. Speaker, I have stated in the House over and over again that when any Member rises and asks the privilege of addressing the House for the moment or for any day in the future, any Member of the House can prevent this by a single objection. I further stated that wanting to accommodate the Members of the House insofar as we can and yet protect and expedite the legislative program, that when any Member asks consent to address the House, it must be understood I would interpose an objection unless the Member understood and agreed that the time so requested would be subject to privileged matters, such as conference reports, privileged bills from committees that have the right to report privileged bills, reports from the Committee on Rules, or special rules making certain legislation in order.(9)

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9. *Id.* at pp. 5373, 5374.

§ 7.2 It is the general custom that when the House starts on special-order speeches, no further business will be transacted unless an emergency arises, although no rule of the House prohibits such transaction of business.

On Jan. 20, 1964,[10] a unanimous-consent request made during special-order speeches was objected to:

The Speaker Pro Tempore:[11] Under previous order of the House, the gentleman from Texas [Mr. Patman] is recognized for 60 minutes.

Mr. [Wright] Patman: Mr. Speaker, since there is a Democratic caucus at 10 o'clock tomorrow when we expected to have our committee meeting, we cannot have the committee meeting until 11 o'clock tomorrow. I therefore ask unanimous consent that on tomorrow afternoon the Subcommittee on Domestic Finance of the Committee on Banking and Currency may be allowed to sit during general debate.

The Speaker Pro Tempore: Is there objection to the request of the gentleman from Texas? . . .

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, reserving the right to object, do I understand the parliamentary situation to be that we are on special orders?

The Speaker Pro Tempore: We are on special orders.

Mr. Gross: It has been the unwritten rule and the custom that when the House starts on special orders, business of general interest to the House is not to be transacted. In view of the fact that we now are on special orders, I must agree with the gentleman from New York [Mr. Kilburn], that this request should be taken up tomorrow noon when we are in general session in the House.

Mr. Patman: Mr. Speaker, I am not permitting the gentleman's statement to go unchallenged.

Mr. Gross: I reserve the right to object. Mr. Speaker, do I have the floor?

The Speaker Pro Tempore: The gentleman has the floor, but the gentleman from Texas may propound a unanimous-consent request.

Mr. Gross: Of course, and it is also my privilege to reserve the right to object, as I understand it, Mr. Speaker.

The Speaker Pro Tempore: The gentleman is correct.

Mr. Gross: Therefore, Mr. Speaker, under the circumstances, I am constrained to object to the request.

The Speaker Pro Tempore: Objection is heard.

§ 7.3 Special orders are normally scheduled to follow the legislative business of the day, but on occasion the Speaker has recognized for special orders prior to legislative business where the latter was not ready for floor consideration, and has on such occasions notified the House that there would be legislative busi-

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[10] 110 Cong. Rec. 614, 615, 88th Cong. 2d Sess.

[11] Roland V. Libonati (Ill.).

ness following special-order speeches.

Speaker Carl Albert, of Oklahoma, made the following announcement on Dec. 14, 1971:

> The Chair would like to advise the Members that in order to get as much accomplished as we can, and in view of the fact that we have no legislative business ready at this moment, we will call special orders, and after they are completed declare a recess, unless legislative business is in order.
>
> The Chair in making this announcement will state that we are not setting this as a precedent, but that we are calling special orders today, and then going back to the legislative business, if any, after recessing if necessary.[12]

A similar announcement was made on Oct. 14, 1972:

> THE SPEAKER: The Chair would desire to make a statement.
>
> The Chair is going to call for special orders at this time.
>
> The Chair desires also to notify the House that there will be business following the special orders. We are merely using this time now because we do not have any business ready for transaction before the House.
>
> Does the gentleman from Missouri desire recognition at this time?
>
> MR. [DURWARD G.] HALL [of Missouri]: Well, Mr. Speaker, is it contemplated that the special orders will follow if we adopt this unusual procedure, and then we will go back into legislative business? Heretofore most of us have always presumed that once the special orders had started we were free.
>
> THE SPEAKER: That is why the Chair made that statement, because the Chair always heretofore adhered to the philosophy that there should be no business subsequent to the calling of special orders.
>
> MR. HALL: The business of the House has been conducted in keeping with that procedure, Mr. Speaker.
>
> THE SPEAKER: It is the procedure we have always used heretofore.[13]

On Jan. 22, 1968, Majority Leader Carl Albert, of Oklahoma, made an announcement relating to the order of business:

> MR. ALBERT: Mr. Speaker, we have another matter of legislative business. More than an hour ago the Senate agreed to a resolution which we expect to receive momentarily. The gentleman from Texas [Mr. Patman] and the gentleman from Missouri [Mr. Curtis] have been standing by. I would like to advise Members that that resolution has to do with the extension of time for the filing of the President's Economic Report. If we do proceed with special orders, I would like the Members of the House to know that as soon as Senate Joint Resolution 132 comes over, we would like to take it up.
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, will the gentleman yield?

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[12] 117 CONG. REC. 46801, 92d Cong. 1st Sess.

[13] 118 CONG. REC. 36446, 92d Cong. 2d Sess.

Mr. Albert: I am glad to yield to the gentleman from Iowa.

Mr. Gross: Does the gentleman anticipate any controversy over the matter?

Mr. Albert: I have not heard of any point of controversy. There will be some discussion.(14)

On another occasion the House, having completed scheduled business, proceeded to special-order speeches, recessed to await a message from the Senate, and then acted on a conference report following the receipt of the message informing the House of the Senate's action thereon.(15)

§ 7.4 Unanimous-consent requests for the transaction of business are not customarily entertained after special orders have begun, but on occasion the House has permitted the transaction of such legislative business after scheduled business has been concluded and special-order speeches have begun.

On Mar. 17, 1971,(16) "special-order" speeches had begun, following the conclusion of legislative business for the day. A unanimous-consent request was made, discussed, and agreed to:

Mr. [Thomas P.] O'Neill [Jr., of Massachusetts]: Mr. Speaker, I ask unanimous consent that the Committee on House Administration have permission until midnight tonight to file certain privileged reports.

The Speaker Pro Tempore:(17) Is there objection to the request of the gentleman from Massachusetts?

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, reserving the right to object, I do so only for the purpose of trying to ascertain here and now whether we are to follow the custom of no business of the House being transacted after embarking on special orders. That has been the custom in the past, and I should like to have some assurance from the Speaker or the distinguished majority whip that we can rely upon the custom that has been in practice for a long time, that no business will be transacted after special orders are begun.

Mr. O'Neill: I would be happy to answer the gentleman from Iowa.

Mr. Gross: I would be glad to have the answer.

Mr. O'Neill: When I went to the minority leader and explained to him what had happened, that this notification did not come to me until we went into special orders, the gentleman heard the colloquy. I went to the Speaker of the House, and the Speaker has assured us that it is unprecedented and it will not happen again during the session.

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14. 114 Cong. Rec. 430, 90th Cong. 2d Sess.

15. 115 Cong. Rec. 40227, 91st Cong. 1st Sess., Dec. 19, 1969.

16. 117 Cong. Rec. 6848, 92d Cong. 1st Sess.

17. Brock Adams (Wash.).

MR. GROSS: I thank the gentleman for that assurance.

Mr. Speaker, I withdraw my reservation.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Limited to One Hour

§ 7.5 Special orders to address the House at the conclusion of the business of the day are limited to one hour per Member, and when a Member has used one hour, the Chair will decline to recognize him for extensions of time or for an additional special order.

On Feb. 9, 1966, Speaker pro tempore Carl Albert, of Oklahoma, declined to recognize a Member to request a second special order for the same day:

MR. [JOSEPH] RESNICK [of New York]: Will the gentleman yield for a unanimous-consent request?

MR. [JOHN BELL] WILLIAMS [of Mississippi]: I yield for that purpose.

MR. RESNICK: Mr. Speaker, I ask unanimous consent that I may have a special order after all other special orders of the day and other legislative business of the day have been concluded to address the House for a period of 15 minutes.

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman that pursuant to the practice of the House, Members are limited to a 1-hour special order per day. The Chair would be glad to entertain a request for a special order for a later day.[18]

On Oct. 30, 1967, Speaker pro tempore Henry B. Gonzalez, of Texas, advised a Member that he could only be recognized for one hour to speak under a special order, and that his time could not be extended, even by unanimous consent.[1]

Parliamentarian's Note: Since Rule XIV clause 2, *House Rules and Manual* § 758 (1979), provides that a Member may not be recognized for more than one hour of debate on any question, a special-order speech may not extend beyond one hour even by unanimous consent. However, another Member obtaining the floor in his own right may yield to a Member who has already consumed a special order.[2]

§ 7.6 A Member was granted a special order to address the House at the conclusion of other special orders previously granted (which totaled over 22 hours) with the understanding that his time would

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[18] 112 CONG. REC. 2794, 89th Cong. 2d Sess.

[1] 113 CONG. REC. 30472, 90th Cong. 1st Sess.

[2] 114 CONG. REC. 14265, 90th Cong. 2d Sess., May 21, 1968.

terminate at the end of 60 minutes or when the House convened on the next calendar day, whichever occurred earlier.

On Oct. 14, 1969,[3] where the House had granted special orders totaling over 22 hours at the conclusion of business (with the intention of Members opposing the Vietnam conflict to keep the House in session throughout the night), another special order was granted as follows:

> MR. [ROBERT L.] LEGGETT [of California]: Mr. Speaker, I ask unanimous consent that I be given 60 minutes for a special order either this afternoon or tomorrow morning immediately after the time allotted to the gentleman from New York (Mr. Halpern), my time to expire prior to the regular time that the House will convene tomorrow.
>
> THE SPEAKER:[4] Will the gentleman from California please repeat his request through the microphone so that all Members may hear the gentleman's request?
>
> MR. LEGGETT: Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and I ask unanimous consent that I be given unanimous consent—rather, I ask unanimous consent that I be allowed to address the House for 60 minutes, either this afternoon or tomorrow morning immediately after the time allotted to the gentleman from New York (Mr. Halpern), my said 60 minutes to expire prior to the regular time set for the convening of the House tomorrow morning. . . .
>
> THE SPEAKER: . . . Is there objection to the request of the gentleman from California (Mr. Leggett)?
>
> There was no objection.

Requesting and Rescheduling

§ 7.7 Special-order speeches may be rescheduled to a following day by unanimous consent, to precede special-order speeches scheduled for that day.

On Oct. 9, 1962,[5] before the House adjourned out of respect to a deceased Member (Clement W. Miller, of California), a unanimous-consent request made by the Majority Leader was agreed to:

> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the special orders heretofore entered for today be transferred to tomorrow and be placed at the top of the list of special orders for tomorrow.
>
> THE SPEAKER:[6] Is there objection to the request of the gentleman from Oklahoma?
>
> There was no objection.

Special-order speeches were similarly transferred to the following day on July 22, 1963, due to the death of a Member.(7)

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[3] 115 CONG. REC. 29938, 29939, 91st Cong. 1st Sess.

[4] John W. McCormack (Mass.).

[5] 108 CONG. REC. 22850, 87th Cong. 2d Sess.

[6] John W. McCormack (Mass.).

§ 7.8 When the House adjourns and does not reach special-order speeches scheduled for that day, such speeches are not automatically in order on the next legislative day; a unanimous-consent request to reschedule those special orders must be agreed to by the House.

On Jan. 26, 1971, Speaker Carl Albert, of Oklahoma, answered a parliamentary inquiry on rescheduling special-order speeches:

> (Mr. Montgomery asked and was given permission to address the House for 1 minute.)
>
> MR. [GILLESPIE V.] MONTGOMERY [of Mississippi]: Mr. Speaker, I take this time for the purpose of asking the majority leader about the rescheduling of special orders. I was given unanimous consent for a special order on this Wednesday. In the light of the request of the majority leader that the House go over to Friday, I should like to ask him what procedures we should now follow.
>
> MR. [HALE] BOGGS [of Louisiana]: The gentleman simply will have to ask unanimous consent that his special order be rescheduled for Friday or some other time.
>
> MR. MONTGOMERY: Mr. Speaker, I ask unanimous consent that all special orders scheduled for Wednesday and Thursday of this week go over until Friday, January 29.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Mississippi?
>
> There was no objection.(8)

Speaker Sam Rayburn, of Texas, responded to a similar parliamentary inquiry on Mar. 29, 1960 (where the House had adjourned out of respect to a deceased Member on the previous day):

> MR. [WILLIAM L.] SPRINGER [of Illinois]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. SPRINGER: Mr. Speaker, I had a special order on yesterday for 40 minutes. My inquiry is, Does that special order hold over until today so that mine would be the first special order today?
>
> THE SPEAKER: The gentleman will have to ask unanimous consent to obtain a new special order.(9)

§ 7.9 The Chair declined recognition for a unanimous-consent request that a Member be permitted to address the House on a future day before legislative business.

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7. 109 CONG. REC. 13004, 88th Cong. 1st Sess.

8. 117 CONG. REC. 485, 92d Cong. 1st Sess.

9. 106 CONG. REC. 6823, 86th Cong. 2d Sess.

On June 14, 1935,(10) Speaker Joseph W. Byrns, of Tennessee, declined to recognize for a unanimous-consent request:

MR. [KENT E.] KELLER [of Illinois]: Mr. Speaker, I ask unanimous consent that on next Monday after the reading of the Journal and the completion of business on the Speaker's desk I may address the House for 15 minutes to answer an attack upon an amendment I proposed to the Constitution made in the Washington Times of June 12 by Mr. James P. Williams, Jr.

THE SPEAKER: Under the custom that prevails and the action of the Chair heretofore, the Chair cannot recognize the gentleman today to make a speech on Monday. The Chair hopes the gentleman will defer his request.

Sequence

§ 7.10 Special-order speeches are ordinarily made in the order in which permission has been granted to the requesting Members by the House, but the House may by unanimous consent change that order to accommodate Members.

On May 22, 1973,(11) Speaker pro tempore Tom Bevill, of Alabama, recognized for a unanimous-consent request to change the sequence of special-order speeches:

MR. [DAVID W.] DENNIS [of Indiana]: Mr. Speaker, I ask unanimous consent that the special order time assigned to me today be set over for tomorrow, and that I be granted a 60-minute special order at that time, as the first special order for tomorrow.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Indiana?

There was no objection.

MR. [JOHN H.] ROUSSELCT [of California]: Mr. Speaker, will the gentleman yield?

MR. DENNIS: I yield to the gentleman from California.

MR. ROUSSELOT: Mr. Speaker, I make the same unanimous-consent request as made by the gentleman from Indiana (Mr. Dennis) that my special order for 60 minutes to be set over for tomorrow, and my special order follow immediately the special order of the gentleman from Indiana (Mr. Dennis).

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from California?

There was no objection.

§ 7.11 A Member having a special order was permitted by unanimous consent to relinquish the floor temporarily to allow the Member having the next special order to use part of his own time.

On July 11, 1966, the House agreed to a unanimous-consent re-

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10. 79 CONG. REC. 9330, 74th Cong. 1st Sess.

As discussed previously, current practice requires special-order speeches to follow, not precede, legislative business.

11. 119 CONG. REC. 16578, 16579, 93d Cong. 1st Sess.

quest varying the regular order of special-order speeches:

Mr. [Thomas B.] Curtis [of Missouri]: I would be happy to agree. I do have a difficult problem. I have a live broadcast coming through at exactly 1 o'clock, so I shall go into the cloakroom to do that. If I could proceed for about 5 minutes and then have the gentleman proceed, when I am finished out there I could proceed further, and I would be happy to yield to the gentleman.

Would that be agreeable?

Mr. [Wright] Patman [of Texas]: That would be agreeable, or I could go ahead until the gentleman has finished.

Mr. Curtis: Whichever the gentleman prefers. Either will work out.

Mr. Patman: That will be satisfactory.

With that understanding, Mr. Speaker, I ask unanimous consent that the gentleman from Missouri [Mr. Curtis] may be allowed to proceed for 5 minutes at this time, with the time to be taken from his time, and that I may be permitted to resume after he finishes.

The Speaker Pro Tempore:(12) Is there objection to the request of the gentleman from Texas?

There was no objection.

The Speaker Pro Tempore: The gentleman from Missouri [Mr. Curtis] is recognized.(13)

§ 7.12 By unanimous consent, a Member may be granted a special order to speak ahead of those already scheduled for special orders.

On July 14, 1965,(14) a unanimous-consent request related to the sequence of special-order speeches was objected to:

Mr. [Sidney R.] Yates [of Illinois]: Mr. Speaker, I ask unanimous consent, with the consent of those who have been previously granted a special order, to address the House for 30 minutes today relative to the death of Ambassador Adlai Stevenson.

The Speaker:(15) The gentleman from Illinois [Mr. Yates] asks unanimous consent that he may address the House for 30 minutes as the first special order, with the consent of other Members who have obtained special orders, in relation to the death of Ambassador Adlai Stevenson.

Is there objection to the request of the gentleman from Illinois?

Mr. [William T.] Cahill [of New Jersey]: Mr. Speaker, I regret I must object.

Mr. Speaker, I regretted very sincerely what I considered to be a requirement to interpose an objection to the request of the gentleman from Illinois. I only did it because there were a great number of people from my district who were here in anticipation of the special order I had requested some time ago and because a great many of the Members had evidenced a keen interest in the subject matter. However, I fully recognize the great importance of and the great contribution that our late and respected and beloved Ambassador to the United Nations has made to this country. In deference to that and out of respect for his memory, I would ask that I be permitted to relinquish the time heretofore asked and that my special order go over to a later date and that I be permitted to yield the 1 hour I have in a special order to the gentleman from Illinois [Mr. Yates] and all those who would like to pay tribute to the memory of the late Adlai Stevenson.

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(12) Sam M. Gibbons (Fla.).

(13) 112 Cong. Rec. 14988, 89th Cong. 2d Sess.

(14) 111 Cong. Rec. 16845, 89th Cong. 1st Sess.

(15) John W. McCormack (Mass.).

Mr. Yates: I thank the gentleman.

The Speaker: Is there objection to the request of the gentleman from Illinois?

There was no objection

On Jan. 29, 1971,(16) Speaker Carl Albert, of Oklahoma, announced that he would, by unanimous consent, recognize the Chairman and ranking minority member of the Committee on Appropriations for special-order speeches immediately following the reading of the President's budget message and ahead of other Members who had special orders previously scheduled for that day.

§ 8. Varying the Order of Business

Generally, the regular order of business may be varied either by unanimous consent or by the adoption of a resolution so providing; and such a resolution may be reported from the Committee on Rules or brought up under suspension of the rules.(17) Any of these methods may be used to make in order the consideration of a bill or other proposition which cannot be called up under the normal order of business, as where provision is made for the immediate consideration of a bill which has not been reported by a committee or where the bill, although reported, is not privileged for consideration under the rules.

Orders and unanimous-consent requests changing the order of business are so numerous and varied that only a representative sample is included in this section. Frequently, orders are used to change the day on which certain calendar business may be considered, such as District of Columbia business, motions on the Discharge Calendar, and motions to suspend the rules and pass bills.

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16. 117 Cong. Rec. 990, 92d Cong. 1st Sess.

17. For resolutions reported by the Committee on Rules varying the order of business, see §§ 16 et seq., infra. For motions to suspend the rules, their use and effect, see §§ 9–15, infra.

An order altering a calendar day has the effect of providing that an eligible bill (or other proposition) be considered on the specified day or days as if it were the normal time for the consideration of such business.(18) Another common use of unanimous-consent requests is to postpone roll call votes (or all votes) from one day to another. On the day to which postponed, such votes become the unfinished business, and any Member may exercise the same rights as when the vote was first put or would have been put.(19)

The House may also by unanimous consent vary the relative precedence of certain bills or motions, such as giving precedence for consideration to a less-privileged matter,(20) or determining which of two equally privileged matters will be first considered.(1)

It should be noted that in some cases where unanimous consent has been granted for consideration of a bill, a point of order may nevertheless subsequently be sustained if directed to the question of consideration, as where it is based on insufficiency of the accompanying report. It has been held that if the unanimous-consent agreement includes a waiver of points of order "against the bill," points of order directed against consideration of the bill are thereby waived. Under the modern practice, however, points of order that go to the question of consideration rather than to the content of the bill itself must be separately and expressly waived. These matters are discussed in more detail in Ch. 31, infra, in which points of order and waiver thereof are treated.

It is important to note that recognition for unanimous-consent requests is within the discretion of the Speaker, who may decline to recognize for requests varying the order of business where such requests are not first cleared with the leadership on both sides of the aisle.(2)

Varying Precedence of Bills

§ 8.1 Where two propositions of equal privilege are pending, it is for the Chair to determine whom he will recognize to call up one of

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18. See §§ 8.7, 8.11, infra.
19. For unanimous-consent requests postponing votes, see §§ 8.14–8.18, infra. For the status of postponed votes as unfinished business, see §§ 3.14–3.18, supra.
20. See § 8.3, infra.
1. See § 8.1, infra.
2. See for example, § 8.21, infra. For further discussion of unanimous-consent requests as related to the order of business, see § 1, supra.

the propositions, but the House may by unanimous consent determine such precedence.

On Sept. 11, 1945,(3) Speaker Sam Rayburn, of Texas, entertained a unanimous-consent request relating to the order of business and responded to a parliamentary inquiry as to its effect:

THE SPEAKER: The Chair recognizes the gentleman from North Carolina.

MR. [ALFRED L.] BULWINKLE [of North Carolina]: Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow, immediately after the meeting of the House for business, to consider the bill (H.R. 3974) to repeal war time; that general debate be limited to 1 hour, to be equally divided and controlled by the gentleman from Oklahoma [Mr. Boren], chairman of the subcommittee, and the gentleman from Massachusetts [Mr. Holmes].

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, reserving the right to object, and I shall not because I want to congratulate the committee on bringing in the legislation at this early date, as I understand it, that will be the first order of business tomorrow?

MR. BULWINKLE: Yes; that is my understanding.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, reserving the right to object, I was under the impression that H.R. 3660 was to be the next order of business.

THE SPEAKER: That is a question for the Chair, as to whether the Chair will recognize the gentleman from Illinois to call up the rule or recognize the gentleman from Oklahoma to call up the bill repealing war time. The request being made at this time is for the war time repeal bill to take precedence.

§ 8.2 By unanimous consent, the House proceeded to the immediate consideration of a bill pending on the Union Calendar before taking up unfinished business (votes on certain bills carried over from preceding days).

On Apr. 6, 1966,(4) Speaker John W. McCormack, of Massachusetts, made the following statement:

The next order of business is the matters that were passed over from Monday and Tuesday. However, the Chair desires to state that there is a bill out of the Committee on Ways and Means relating to the extension of time for filing for medicare. If there is no objection on the part of the House, the Chair would like to recognize the gentleman from Arkansas [Mr. Mills] to submit a unanimous-consent request to bring this bill up. The Chair also understands it is the intention to have a rollcall on the bill. The Chair is trying to work this out for the benefit of the Members. Is there objection to the Chair recognizing the gentleman from

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3. 91 CONG. REC. 8510, 8511, 79th Cong. 1st Sess.

4. 112 CONG. REC. 7749, 89th Cong. 2d Sess.

Arkansas [Mr. Mills], for the purpose stated by the Chair? The Chair hears none and recognizes the gentleman from Arkansas [Mr. Mills].

Varying Precedence of Motions

§ 8.3 The regular order of business, such as the relative precedence of a motion to discharge on discharge days over unfinished business, may be varied by unanimous consent.

On May 8, 1936,[5] Speaker Joseph W. Byrns, of Tennessee, answered a parliamentary inquiry as to the order of business and the power of the House to change such order by unanimous consent:

> MR. [WILLIAM B.] BANKHEAD [of Alabama]: Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.
>
> MR. [GERALD J.] BOILEAU [of Wisconsin]: Mr. Speaker, reserving the right to object, and I shall not object, will the Speaker make the situation clear with reference to the legislative program for Monday?
>
> As I understand it, it will be in order before we complete this bill to take up the question of the discharge of the Rules Committee from further consideration of the Frazier-Lemke bill. I would like to ask the Speaker if my understanding is correct, if consideration of the discharge petition would come up before the vote on this bill?
>
> THE SPEAKER: The Chair thinks it would unless there is a previous understanding. The matter of which shall take precedence can be fixed by consent.
>
> MR. BOILEAU: I appreciate that, Mr. Speaker. Many Members interested in the Frazier-Lemke bill are anxious to know just what the situation is going to be.
>
> MR. [BERTRAND H.] SNELL [of New York]: It would seem to me, if the Speaker will permit, that the vote on the pending bill would be the unfinished business before the House on Monday.
>
> THE SPEAKER: The Chair will state to the gentleman from Wisconsin that, by consent, an agreement can be made whereby the vote on the motion to recommit the pending bill, or a roll call on its passage, can be had first, and then to take up the motion to discharge the committee.

§ 8.4 The House granted consent that it be in order for a Member to move the rereference of a bill at any time during the day notwithstanding the rule (Rule XXII clause 4) requiring that such motions be made immediately after the reading of the Journal.

On June 18, 1952,[6] Mr. Carl Vinson, of Georgia, asked unanimous consent, after the reading of the Journal, that it be in order for him to make a motion at any time on that day to rerefer a bill. He stated that the purpose of the request was to defer offering the motion until another concerned Member should reach the floor, despite the requirement of Rule XXII clause 4 [*House Rules and Manual* § 854 (1979)], that motions to rerefer be made immediately after the reading of the Journal. The request was agreed to and Mr. Vinson offered the motion to rerefer later in the day's proceedings.

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[5] 80 CONG. REC. 7010, 74th Cong. 2d Sess.

[6] 98 CONG. REC. 7532, 82d Cong. 2d Sess.

§ 8.5 Calendar Wednesday business may be dispensed with by unanimous consent but not by motion before the approval of the Journal.

On Sept. 19, 1962,(7) Carl Albert, of Oklahoma, the Majority Leader, asked unanimous consent, before the reading and approval of the Journal, that Calendar Wednesday business on that day be dispensed with. Mr. Carl D. Perkins, of Kentucky, objected to the request. Mr. Albert then moved that Calendar Wednesday business be dispensed with, and Speaker John W. McCormack, of Massachusetts, ruled that the motion was not in order before the reading and approval of the Journal.

Changing Consent and Private Calendar Days

§ 8.6 The call of the Consent and Private Calendars and authority for the Speaker to recognize for suspensions under Rule XXVII clause 1 were, by unanimous consent, made in order on the second Tuesdays of the month due to the adjournment of the House for an Easter recess.

On Mar. 29, 1961,(8) the House agreed to a unanimous-consent request, where the House was to adjourn for an Easter recess until Apr. 10:

> MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I ask unanimous consent that on Tuesday, April 11, 1961, it shall be in order for the Speaker to entertain motions to suspend the rules notwithstanding the provisions of clause 1, rule XXVII, that it shall be in order to consider business under clause 4, rule XIII, the Consent Calendar rule, and that on the same date the Private Calendar may be called. . . .
>
> THE SPEAKER:(9) Is there objection to the request of the gentleman from Massachusetts?
>
> There was no objection.

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(7) 108 CONG. REC. 19940, 87th Cong. 2d Sess.

(8) 107 CONG. REC. 5289, 5290, 87th Cong. 1st Sess.

(9) Sam Rayburn (Tex.).

Changing Discharge Day

§ 8.7 Following a unanimous-consent agreement changing the day on which motions on the Calendar of Motions to Discharge Committees could be called up, the Speaker stated that a motion that had been on the calendar for seven legislative days prior to the date set in the unanimous-consent agreement would be eligible.

On June 9, 1960, the House had agreed to a unanimous-consent request to change from the second Monday [under Rule XXVII clause 4, *House Rules and Manual* § 908 (1979)] to the following Wednesday, the day on which motions to discharge committees could be called up. In response to a parliamentary inquiry, Speaker Sam Rayburn, of Texas, indicated that the seven days required by Rule XXVII clause 4 for the motion to lie on the calendar would be calculated as of the day specified in the request:

> MR. [JOHN W.] McCORMACK [of Massachusetts]: . . . My parliamentary inquiry is this: In view of the unanimous consent request heretofore entered into by the House, if we adjourn from today until Monday will the discharge petition in relation to the pay raise bill be in order on Wednesday next?
>
> THE SPEAKER: The Chair would so hold.[10]

§ 8.8 The day on which motions on the Calendar of Motions to Discharge Committees could be called up under the rule (Rule XXVII clause 4) was, by unanimous consent, changed from the second Monday to the following Wednesday.

On June 9, 1960,[11] a unanimous-consent request to transfer motions to discharge committees was agreed to:

> MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Speaker, on yesterday consent was granted that consideration of the pay raise bill be postponed until next Wednesday. I desire to submit a similar request today in clarified language:
>
> Mr. Speaker, notwithstanding any other provisions of the rules, I ask unanimous consent that it may be in order on Wednesday next for the Speaker to recognize any Member who signed discharge motion No. 6, being numbered 1 on the calendar of motions to discharge committees to call up said motion for immediate consideration.
>
> THE SPEAKER:[12] Is there objection to the request of the gentleman from Massachusetts?

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10. 106 CONG. REC. 12272, 86th Cong. 2d Sess.
11. 106 CONG. REC. 12256, 86th Cong. 2d Sess.
12. Sam Rayburn (Tex.).

There was no objection.

Mr. McCormack had made a similar request on June 8:

Mr. McCormack: Mr. Speaker, if I may have the attention of my colleagues on a matter which has been cleared by the leadership on both sides, in connection with motions in order under the discharge rule on Monday next, I ask unanimous consent that they be postponed until the following Wednesday and be the first order of business.

The Speaker: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.(13)

Changing District Day

§ 8.9 By unanimous consent, District of Columbia business in order on the second Monday of the month (a legal "Columbus Day" holiday when the House would not be in session) was transferred to the following day.

On Oct. 5, 1971, the House agreed to a unanimous-consent request:

Mr. [Hale] Boggs [of Louisiana]: Mr. Speaker, I ask unanimous consent that business in order under clause 8, rule XXIV, from the Committee on the District of Columbia, may be in order on Tuesday, October 12.

The Speaker:(14) Is there objection to the request of the gentleman from Louisiana?

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, reserving the right to object, would the gentleman restate his request?

Mr. Boggs: The request is simply that District Day be postponed from Monday until Tuesday.

Mr. Gross: Mr. Speaker, I withdraw my reservation.

The Speaker: Is there objection to the request of the gentleman from Louisiana?

There was no objection.(15)

The Monday in question was Columbus Day, a legal holiday when the House would not be in session.

§ 8.10 District of Columbia business and authority for the Speaker to recognize for motions to suspend the rules were by unanimous consent transferred to the following day (due to the death of a Member).

On Aug. 10, 1964, before the House adjourned out of respect for a deceased Member (John B. Bennett, of Michigan), the House agreed to a unanimous-consent request related to the order of business:

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13. 106 Cong. Rec. 12120, 86th Cong. 2d Sess.

14. Carl Albert (Okla.).

15. 117 Cong. Rec. 34882, 34883, 92d Cong. 1st Sess.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the motion to suspend the rules and pass the bill H.R. 1927, nonservice-connected pensions, in order today, be in order on tomorrow, Tuesday, August 11, 1964, and that business in order under clause 8, rule XXIV, District of Columbia business, also be in order on tomorrow instead of today.

THE SPEAKER:(16) Is there objection to the request of the gentleman from Oklahoma?

There was no objection.(17)

§ 8.11 By unanimous consent, the House agreed that certain District of Columbia business could be conducted on a Wednesday under the rules and procedures normally applicable to District bills called up on the second or fourth Mondays of the month.

On May 25, 1960, the House agreed to the following unanimous-consent request:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I ask unanimous consent that on Wednesday of next week it may be in order for the Speaker to recognize the chairman of the Committee on the District of Columbia or any member thereof to consider as under District of Columbia Day, one bill, H.R. 12063, to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport to the District of Columbia system.

This has been cleared with the ranking member of the Committee on the District of Columbia and the minority leader.

THE SPEAKER:(18) Is there objection to the request of the gentleman from Massachusetts?

There was no objection.(19)

Changing Suspension Day

§ 8.12 By unanimous consent, the Speaker was given authority to recognize for motions to suspend the rules and pass certain bills on a date to be agreed upon by himself and the Majority and Minority Leaders.

On Aug. 17, 1964,(20) the House agreed to a unanimous-consent request propounded by the Majority Leader as to the order of business:

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that it shall be in order for the Speaker to recognize for motions to suspend the rules and pass the bills remaining undisposed of on the whip notice today on a day to be agreed upon by the Speaker, the majority leader, and the minority leader.

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16. John W. McCormack (Mass.).
17. 110 CONG. REC. 18854, 88th Cong. 2d Sess.
18. Sam Rayburn (Tex.).
19. 106 CONG. REC. 11116, 86th Cong. 2d Sess.
20. 110 CONG. REC. 19943, 19944, 88th Cong. 2d Sess.

THE SPEAKER:[1] Is there objection to the request of the gentleman from Oklahoma? . . .

There was no objection.

Making in Order Special Appropriation Bill

§ 8.13 By unanimous consent, the House may make in order on certain days the consideration of joint resolutions containing special appropriations or continuing appropriations.

On Sept. 29, 1971,[2] the House agreed to unanimous-consent requests made by the Chairman of the Committee on Appropriations relative to the order of business:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that it may be in order on any day next week to consider a joint resolution making a supplemental appropriation for fiscal year 1972 for Federal unemployment benefits and allowances, Manpower Administration, Department of Labor.

THE SPEAKER:[3] Is there objection to the request of the gentleman from Texas? . . .

There was no objection. . . .

MR. MAHON: Mr. Speaker, I ask unanimous consent that it may be in order on any day after October 5, 1971, to consider a joint resolution making further continuing appropriations for the fiscal year 1972, and for other purposes.

THE SPEAKER: Is there objection to the request of the gentleman from Texas? . . .

There was no objection.

Postponing Votes

§ 8.14 Votes to be taken on a religious holiday on which the House will be in session may, by unanimous consent, be postponed until a following day.

On Apr. 12, 1973,[4] the House agreed to and discussed a unanimous-consent request relating to order of business:

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, I ask unanimous consent that on Tuesday of next week, it being a Jewish holiday, votes on final passage and recommittal be postponed until the following day.

THE SPEAKER:[5] Is there objection to the request of the gentleman from Massachusetts?

MR. [H. R.] GROSS [of Iowa]: Reserving the right to object, Mr. Speaker, is that on the Economic Stabilization Act only?

MR. O'NEILL: No. I am asking that be on whatever legislation is before this body on Tuesday.

MR. GROSS: But not limited to the Economic Stabilization Act?

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[1] John W. McCormack (Mass.).

[2] 117 CONG. REC. 33826–28, 92d Cong. 1st Sess.

[3] John W. McCormack (Mass.).

[4] 119 CONG. REC. 12216, 93d Cong. 1st Sess.

[5] Carl Albert (Okla.).

Mr. O'Neill: No.

Mr. Gross: Mr. Speaker, I object to that.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, would the gentleman listen for a moment? I hope that this program is approved, but they have to get a rule and if they do not get a rule, something else might be programed and, if so——

Mr. Gross: Further reserving the right to object, Mr. Speaker, what other legislation would we be permitted to vote on? And what is this kind of procedure going to do with respect to adjournment on Thursday?

Mr. Gerald R. Ford: Mr. Speaker, would the gentleman yield?

Mr. Gross: Yes, I will be glad to yield to the gentleman.

Mr. Gerald R. Ford: Perhaps the distinguished majority leader should respond to this, but if there happens to be no rule on the Economic Stabilization Act—and I do not think that is going to happen—but if it did, we might wish to take up the Federal aid to highway bill.

Mr. O'Neill: If the gentleman will yield further, it could be that we could take up any rule.

Mr. Gross: Without a vote?

Mr. O'Neill: We have always had the custom of doing that on Jewish holidays, to put over votes.

Mr. Gross: I do not recall that that has been an inflexible rule.

Mr. Gerald R. Ford: That is my understanding on Jewish holidays or any other religious day for any denomination, that has been the understanding.

Mr. Gross: St. Patrick's Day, or any other day, Columbus Day, and all the other so-called holidays?

Mr. Speaker, since commitments have apparently been made, just for this once I will withdraw my reservation of objection.

The Speaker: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

§ 8.15 The House having agreed to postpone for one day votes on motions to recommit and on final passage, later agreed by unanimous consent to similarly postpone votes on amendments reported from the Committee of the Whole on a designated bill.

On Apr. 12, 1973,[6] a unanimous-consent request relating to the order of business on a future day (Apr. 17) was agreed to after some explanatory debate:

Mr. [Thomas P.] O'Neill [Jr., of Massachusetts]: Mr. Speaker, I ask unanimous consent that on Tuesday of next week, it being a Jewish holiday, votes on final passage and recommittal be postponed until the following day.

On Apr. 16, 1973,[7] a similar request was made for the same day in relation to other types of votes:

Mr. O'Neill: Mr. Speaker, I ask unanimous consent that the vote in the House on any amendment adopted in the Committee of the Whole to the legislative appropriation bill be put over until Wednesday,

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[6] 119 Cong. Rec. 12216, 93d Cong. 1st Sess.

[7] *Id.* at p. 12552.

THE SPEAKER:[8] Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

§ 8.16 The vote on the passage of a bill may, by unanimous consent, be put over until the following day.

On July 19, 1965,[9] Speaker John W. McCormack, of Massachusetts, put the question on the passage of a bill, following the engrossment and third reading. A unanimous-consent request was then agreed to postponing the vote on passage:

THE SPEAKER: The question is on the passage of the bill.

MR. [L. MENDEL] RIVERS of South Carolina: Mr. Speaker——

THE SPEAKER: For what purpose does the gentleman from South Carolina rise?

MR. RIVERS of South Carolina: Mr. Speaker, I ask unanimous consent that further proceedings in the consideration of the bill be suspended until tomorrow.

THE SPEAKER: Without objection, it is so ordered.

There was no objection.

§ 8.17 Further consideration of a conference report on which the previous question had been ordered was, by unanimous consent, postponed and made the unfinished business on the following day.

On Dec. 15, 1970,[10] further consideration of a conference report (H.R. 17867, foreign assistance appropriations) was postponed by unanimous consent after the previous question had been ordered thereon:

MR. [OTTO E.] PASSMAN [of Louisiana]: . . . Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

THE SPEAKER:[11] The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will state that there are five amendments in disagreement.

MR. HALL: I want a vote on the acceptance of the conference report, to which I object violently; and I object to the vote on the ground that a

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8. Carl Albert (Okla.).
9. 111 CONG. REC. 17217, 89th Cong. 1st Sess.
10. 116 CONG. REC. 41544, 91st Cong. 2d Sess.
11. John W. McCormack (Mass.).

quorum is not present and, I repeat, I make a point of order that a quorum is not present.

THE SPEAKER: The Chair will count. Will the gentleman withhold his point of order?

MR. HALL: No, Mr. Speaker, I will not withhold the point of order. I insist on my point of order. The point of order has been properly made.

THE SPEAKER: Will the gentleman indulge the Chair? There are quite a few Members at the White House, and it would be the purpose of the gentleman from Texas if the gentleman from Missouri will withhold his point of order, to ask that further proceedings on the conference report and the amendments in disagreement be postponed until tomorrow, because there are many Members at the White House with their wives.

MR. HALL: The only question of the gentleman from Missouri is: Why was this not considered before the conference report was called up?

Mr. Speaker, under those circumstances, and with that understanding and for no other purpose, I will yield until the gentleman from Texas makes his request.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent that further proceedings on the conference report be postponed until tomorrow and that this be the first order of business on tomorrow. . . .

MR. HALL: . . . Mr. Speaker, I withdraw my reservation of objection. . . .

THE SPEAKER: Accordingly, the matter is postponed until tomorrow, when it will be the first order of business.

§ 8.18 Pursuant to a special order postponing roll calls until the following Thursday, consideration of the vote on a bill called up under suspension of the rules and consideration of a veto message were postponed and made the unfinished business on the day when roll calls would again be in order.

On Oct. 5, 1965,(12) Mr. Clement J. Zablocki, of Wisconsin, moved to suspend the rules and pass a bill; when Speaker John W. McCormack, of Massachusetts, put the question on the motion, Mr. H. R. Gross, of Iowa, objected to the vote on the ground that a quorum was not present. The Speaker then stated as follows:

> THE SPEAKER: Pursuant to the order of the House of October 1, further proceedings on the Senate joint resolution will go over until Thursday, October 7.

On the same day, a veto message from the President was laid before the House and was postponed to Oct. 7 pursuant to the previous order.(13)

Parliamentarian's Note: On Oct. 1, the House had agreed to a unanimous-consent request that all

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12. 111 CONG. REC. 25941-44, 89th Cong. 1st Sess.
13. *Id.* at pp. 25940, 25941.

roll call votes, other than on matters of procedure, which might arise on Oct. 5 or 6, be put over until Oct. 7.(14)

Rescheduling Special Orders

§ 8.19 Special-order speeches may be rescheduled to a following day by unanimous consent, to precede special-order speeches scheduled for that day.

On Oct. 9, 1962,(15) before the House adjourned out of respect to a deceased Member (Clement W. Miller, of California), a unanimous-consent request made by the Majority Leader was agreed to:

> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the special orders heretofore entered for today be transferred to tomorrow and be placed at the top of the list of special orders for tomorrow.
>
> THE SPEAKER:(16) Is there objection to the request of the gentleman from Oklahoma?
>
> There was no objection.

Special-order speeches were similarly transferred to the following day on July 22, 1963, due to the death of a Member.(17)

§ 8.20 Unanimous-consent requests for the transaction of business are not customarily entertained after special orders have begun, but on occasion the House has permitted the transaction of legislative business by unanimous consent after scheduled business has been concluded and special-order speeches have begun.

On Mar. 17, 1971,(18) "special-order" speeches had begun, following the conclusion of legislative business for the day. A unanimous-consent request was made, discussed, and agreed to:

> MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, I ask unanimous consent that the Committee on House Administration have permission until midnight tonight to file certain privileged reports.
>
> THE SPEAKER PRO TEMPORE:(19) Is there objection to the request of the gentleman from Massachusetts?
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object, I do so only for the purpose of trying to ascertain here and now whether we are to follow the custom of no business of the House being transacted after embarking on special orders. That has been the custom in the past, and I should like to have some assurance from the Speaker or the distinguished majority whip that we can rely upon

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14. *Id.* at pp. 25796, 25797.
15. 108 CONG. REC. 22850, 87th Cong. 2d Sess.
16. Sam Rayburn (Tex.).
17. 109 CONG. REC. 13004, 88th Cong. 1st Sess.
18. 117 CONG. REC. 6848, 92d Cong. 1st Sess.
19. Brock Adams (Wash.).

the custom that has been in practice for a long time, that no business will be transacted after special orders are begun.

Mr. O'Neill: I would be happy to answer the gentleman from Iowa.

Mr. Gross: I would be glad to have the answer.

Mr. O'Neill: When I went to the minority leader and explained to him what had happened, that this notification did not come to me until we went into special orders, the gentleman heard the colloquy. I went to the Speaker of the House, and the Speaker has assured us that it is unprecedented and it will not happen again during the session.

Mr. Gross: I thank the gentleman for that assurance.

Mr. Speaker, I withdraw my reservation.

The Speaker Pro Tempore: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Varying Previous Order

§ 8.21 The Speaker declined to recognize a Member to request unanimous consent to make an omnibus bill eligible for consideration during a call of the Private Calendar on a specific day, when the House had previously agreed by unanimous consent that it be passed over.

On July 15, 1968,[20] Speaker John W. McCormack, of Massachusetts, declined to recognize Mr. William L. Hungate, of Missouri, to make the unanimous-consent request that the first omnibus private bill of 1968 (H.R. 16187) be placed on the Private Calendar for July 16. The House had previously agreed, on July 12, 1968, to the unanimous-consent request of Majority Leader Carl Albert, of Oklahoma, that the bill be passed over and not considered during the call of the Private Calendar on July 16.[1]

Withdrawal as Varying Order

§ 8.22 On one occasion the Speaker, having recognized one Member to propound a parliamentary inquiry regarding the status of a resolution as "unfinished business," then recognized another Member to withdraw the resolution, thus eliminating the reason for the inquiry.

On Apr. 8, 1964, a demand was made for the reading of the engrossed copy of a bill where the engrossment was not yet prepared. The bill was laid aside and the House proceeded to consider a resolution (concurring in Senate amendments to a House bill). Prior to the disposition of the resolution, Speaker John W. McCormack, of Massachusetts, declared a recess pursuant to authority previously granted.

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[20] 114 Cong. Rec. 21326, 90th Cong. 2d Sess.

[1] *Id.* at p. 20998.

At the conclusion of the recess, the Speaker stated the unfinished business to be the reading of the engrossed copy of the bill on which the demand had been made. The following inquiry and its disposition then ensued:[2]

The Speaker: The unfinished business is the reading of the engrossed copy of H.R. 10222.

The Clerk will read the engrossed copy.

Mr. Oliver P. Bolton [of Ohio]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Oliver P. Bolton: Mr. Speaker when the recess was called, it is my understanding that we were engaged in the consideration of what is referred to as a cotton and wheat bill. Is it not the rule of the House that we must finish the consideration of that measure before we take up any other measure which has been passed over for parliamentary and mechanical reasons?

Mr. [Richard] Bolling [of Missouri]: Mr. Speaker——

The Speaker: The gentleman from Missouri [Mr. Bolling].

Mr. Bolling: Mr. Speaker, under the rules I withdraw House Resolution 665.

Mr. Oliver P. Bolton: Mr. Speaker a parliamentary inquiry.

Mr. [Charles A.] Halleck [of Indiana]: Mr. Speaker, that takes unanimous consent, and I object.

The Speaker: The Chair will state that it does not take unanimous consent to withdraw the resolution in the House.

Mr. Oliver P. Bolton: Mr. Speaker it is my understanding that the Speaker was addressing the Member now addressing the Chair and had not given an answer to my question. Therefore, the recognition of the Member from the other side, the gentleman from Missouri [Mr. Bolling] was out of order. Am I incorrect?

The Speaker: The recognition of the gentleman from Missouri [Mr. Bolling] terminated the parliamentary inquiry.

Mr. Oliver P. Bolton: In other words, the Speaker did not answer the parliamentary inquiry; is that correct?

The Speaker: Since the resolution was withdrawn, the parliamentary inquiry was ended.

Mr. Oliver P. Bolton: If the Speaker will respectfully permit, the gentleman from Ohio would suggest that the question had been asked before the resolution had been withdrawn.

The Speaker: The Chair will state that the Chair has the power of recognition. Now that the resolution has been withdrawn, the unfinished business is the reading of the engrossed copy of H.R. 10222.

Mr. Oliver P. Bolton: Mr. Speaker, a further parliamentary inquiry.

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[2] 110 Cong. Rec. 7303, 7304, 88th Cong. 2d Sess.

THE SPEAKER: The gentleman will state it.

MR. OLIVER P. BOLTON: The Speaker had recognized the gentleman from Ohio for a parliamentary inquiry. The parliamentary inquiry had been made. The parliamentary inquiry had not been answered and yet the Chair recognized the gentleman from Missouri.

THE SPEAKER: Which the Chair has the power to do.

The Clerk will read the engrossed copy of H.R. 10222. . . .

MR. OLIVER P. BOLTON: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. OLIVER P. BOLTON: Mr. Speaker, may I inquire whether the parliamentary inquiry which I addressed to the Chair is now not to be answered, because of the action of the gentleman from Missouri?

THE SPEAKER: The gentleman will repeat his parliamentary inquiry.

MR. OLIVER P. BOLTON: Mr. Speaker, my parliamentary inquiry was to the effect that inasmuch as the House was engaged at the business before it at the time the Speaker called the recess, whether the rules of the House did not call for the conclusion of that business before other business which had been postponed by the House under the rules of the House and in accordance with the procedures of the House did not have to follow consideration of any business that was before the House at the time of the calling of the recess?

THE SPEAKER: The Chair will state that the gentleman from Missouri withdrew his resolution. If he had not withdrawn the resolution the situation might have been different.

The Chair has made a ruling that the unfinished business is the reading of the engrossed copy of H.R. 10222. That is the unfinished business.

Form of Resolution Varying Special Days

§ 8.23 Form of resolution authorizing call of the Consent Calendar and consideration of motions to suspend the rules on a day other than that specified in Rule XIII clause 4 and Rule XXVII clause 1.(3)

On Aug. 31, 1961, the Committee on Rules reported and the House adopted the following order of business resolution:

> *Resolved*, That the call of the Consent Calendar and consideration of motions to suspend the rules, in order on Monday, September 4, 1961, may be in order on Wednesday, September 6, 1961.(4)

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3. Rule XIII clause 4, *House Rules and Manual* § 746 (1979); and Rule XXVII clause 1, *House Rules and Manual* § 902 (1979).
4. H. Res. 444, 107 CONG. REC. 17766, 87th Cong. 1st Sess., Aug. 31, 1961.

B. MOTIONS TO SUSPEND THE RULES

§ 9. Use and Effect

Rule XXVII clauses 1 through 3[5] provides for a motion to suspend the rules, by a two-thirds vote, which is in order on specified days:

> 1. No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month, and on the Tuesdays immediately following those days, and during the last six days of a session.
>
> 2. All motions to suspend the rules shall, before being submitted to the House, be seconded by a majority by tellers, if demanded.
>
> 3. When a motion to suspend the rules has been seconded, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition; and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.[6]

The motion may be used either to suspend specific rules or to suspend all rules which are in conflict with the purpose of the motion. In current practice, the motion is most frequently used to pass bills or adopt resolutions; the form of the motion is to "suspend the rules and pass the bill" or to "suspend the rules and pass the bill with an amendment." Where the motion is used in that fashion, all rules are suspended which are in conflict with the passage of the bill, and no points of order against the consideration of the bill may be raised, such as points of order based on defects in reporting the bill, inclusion of appropriation language in a legislative bill, or the like.[7]

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[5] See *House Rules and Manual* §§ 902–907 (1979).

This rule was further amended in the 95th Congress to permit the Speaker to recognize for motions to suspend the rules on every Monday and Tuesday. H. Res. 5, 95th Cong. 1st Sess., Jan. 4, 1977. In 1974, a procedure was added to the rule to permit record votes on suspensions to be postponed until after all such motions have been considered. H. Res. 998, 93d Cong. 2d Sess., Apr. 9, 1974.

[6] The motion to suspend the rules, as a method of changing the order of business, is of old usage in the House of Representatives, dating back to 1822. See 5 Hinds' Precedents § 6790 for the early history of the rule.

The motion to suspend the rules is one of the three methods to change the regular order of business, the other two being unanimous-consent requests and special orders reported from the Committee on Rules.

[7] See §§ 9.7–9.12, infra.

While most bills passed by the House have been reported out by committees of the House in accordance with the rules, a motion to suspend the rules may be used to pass an original bill or resolution submitted from the floor and neither introduced nor referred to a committee.(8) Or the motion may be used to pass a bill which is pending before a committee but which has not been reported.(9)

The motion to suspend the rules is an effective method for passing emergency or noncontroversial legislation, without amendment (motions brought up under suspension may not be amended unless the amendment is part of the motion).(10) And since the motion requires a two-thirds vote for adoption, suspension has been used to bring up and adopt proposed amendments to the United States Constitution, which require a two-thirds vote pursuant to article V of the Constitution.(11)

The motion is also an expeditious method for adopting special orders of business without a full report by the Committee on Rules. A resolution (which frequently provides for the disposal of bills from the Speaker's table) may be submitted directly from the floor, and the Member recognized to move to suspend the rules and agree to the resolution is usually the chairman of the committee with jurisdiction over the subject matter of the legislation.(12)

Alternatively, the special order of business may be made part of the motion to suspend the rules (rather than using the motion to adopt a resolution creating the special order). For example, it may be moved to suspend the rules, take from the Speaker's table a House bill with a Senate amendment thereto, and concur in the Senate amendment.(13) However, using the motion to adopt a resolution creating the special order eliminates confusion as to the effect of the motion, since the resolution is sent to the desk and reported by the

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8. See, for example, § 9.19, infra. See also §§ 9.13–9.18 (passage of resolutions affecting the order of business, submitted from the floor).

9. See, for example, § 9.2, infra.

10. See §§ 9.22–9.24, infra. For discussion of the prohibition against offering amendments on the floor to bills and resolutions brought up under suspension, see § 14, infra.

11. See § 9.21, infra.

12. See §§ 9.13–9.18, infra. For matters related to recognition for motions to suspend the rules, see § 11, infra.

If the motion is used to agree to a resolution to take a bill from the Speaker's table, ask for a conference and provide that the Speaker immediately appoint conferees, the use of the motion may prevent a motion to instruct conferees since the "immediate" appointment of conferees implies action by the Speaker without intervening motion (see § 13.17, infra).

13. See § 14.9, infra.

Clerk, rather than the offerer of the motion being required to make what may be a complicated order of business part of the motion.(14)

Some rules of the House may not be suspended, by a motion to suspend the rules or otherwise, such as the rule relating to the privileges of the floor,(15) the rule relating to the use of the Hall of the House,(16) and the rule prohibiting the introduction of gallery occupants.(17)

As indicated by Rule XXVII clause 1, above, the motion is only in order on certain days and on the last six days of a session (although the Speaker may be authorized, by unanimous consent, by a motion to suspend the rules, or by a special order from the Committee on Rules, to entertain motions or a motion to suspend the rules on days other than those specified in the rule).(18) The so-called "suspension calendar" is a list of those bills on which motions to suspend the rules will be entertained by the Speaker on a given day. The list is generally programed in advance in order that notice be given to Members of the House. And only such bills as have been cleared with the leadership are brought up under suspension, as the Speaker has plenary power to entertain or to refuse recognition for motions to suspend the rules.(19)

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14. While it has been held that the right of a Member to have read the paper on which he is called to vote is not changed by the fact that the procedure is by suspension of the rules (5 Hinds' Precedents § 5277; 8 Cannon's Precedents § 3400), the precedents are not uniform in this regard, and in earlier instances the separate motion to suspend the rules and dispense with reading of pending bills, amendments, and Senate amendments was held in order (5 Hinds' Precedents §§ 5278-84). Under the modern practice, only the motion "to suspend the rules and pass" is itself read. Thus only the title of the bill is normally read by the Clerk, and amendments included in the motion are not reported separately, but the Chair may, in his discretion, where objection is made to that procedure, require the reading of an amendment which is not printed or otherwise available (§ 14.4, infra). And, in § 12.21, infra, where, pending a motion to suspend the rules and agree to a resolution which provided for concurring in a Senate amendment with an amendment consisting of the text of a bill introduced in the House, the Speaker ruled that reading of the resolution itself was sufficient and that it could be reread to the House only by unanimous consent.

15. Rule XXXII, *House Rules and Manual* § 919 (1979).

16. Rule XXXI, *House Rules and Manual* § 918 (1979).

17. Rule XIV clause 8, *House Rules and Manual* § 764 (1979).

18. For discussion as to when motions to suspend the rules are in order, see § 10, infra.

19. See, for example, § 9.6, infra.

Effect of Defeat of a Motion to Suspend the Rules

§ 9.1 The Committee on Rules may report a special rule making in order the consideration of a joint resolution previously defeated on a motion to suspend the rules.

On Aug. 24, 1935,(20) Mr. John J. O'Connor, of New York, called up by direction of the Committee on Rules a special order making in order the consideration of a bill which had been brought up under suspension of the rules on the same day and had failed to obtain a two-thirds vote for passage. Speaker Joseph W. Byrns, of Tennessee, answered parliamentary inquiries on the power of the Committee on Rules to report such a resolution:

> MR. O'CONNOR: Mr. Speaker, this is a matter which was considered today under suspension of the rules but failed of passage. It is a matter about which there was some confusion. It is a very simple matter and has nothing to do with ship subsidies. It merely extends the time within which the President can determine whether or not to cancel or modify the contracts. The President has before him this important situation: Many of these contracts will expire between October of this year and January of next year. I am authorized to say that the President feels he needs this authority.
>
> Mr. Speaker, I move the previous question on the resolution.
>
> MR. [MAURY] MAVERICK [of Texas]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. MAVERICK: After a bill has been passed on, can it be brought up again the same day? What about the Puerto Rico bill, which failed? If we can again bring up the bill made in order by this resolution, we can do it with the Puerto Rico bill, or with any other bill that has been defeated once during the day. This bill was defeated a few hours ago.
>
> THE SPEAKER: The Chair will answer the gentleman's parliamentary inquiry. This is an effort on the part of the gentleman from New York, Chairman of the Rules Committee, to bring this bill up under a special rule.
>
> The question is up to the House as to whether or not that can be done.
>
> MR. MAVERICK: I did not hear the Chair.
>
> THE SPEAKER: This is a special rule which is under consideration and is in order.
>
> MR. [WILLIAM D.] MCFARLANE [of Texas]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. MCFARLANE: Is it in order for the Chairman of the Rules Committee to bring in a rule on a bill which we defeated this afternoon and then move the previous question before the opponents have an opportunity to be heard?
>
> THE SPEAKER: It is, under the rules of the House.
>
> MR. O'CONNOR: Mr. Speaker, all the opponents were heard today.
>
> THE SPEAKER: It is a question for the House itself to determine.
>
> MR. [OTHA D.] WEARIN [of Iowa]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.

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20. 79 CONG. REC. 14652, 74th Cong. 1st Sess.

Mr. Wearin: Does this rule provide for the opportunity to offer amendments?

The Speaker: The joint resolution is considered in the House under the rules of the House.

Use of Motion to Suspend Rules Generally

§ 9.2 On motion of the Majority Leader, the House agreed to suspend the rules and pass a bill increasing the salary of the President, although the bill had not been considered in committee.

On Jan. 6, 1969,(21) Carl Albert, of Oklahoma, the Majority Leader, moved to suspend the rules and pass a bill which had been referred to committee but not yet considered by the committee.

Mr. Albert: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10) to increase the per annum rate of compensation of the President of the United States.

The Clerk read as follows:

H.R. 10

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102 of title 3, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

Sec. 2. The amendment made by this Act shall take effect at noon on January 20, 1969.

The Speaker:(1) Is a second demanded?

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I demand a second.

The Speaker: Without objection, a second will be considered as ordered.

There was no objection.

The Speaker: The Chair recognizes the gentleman from Oklahoma (Mr. Albert).

Mr. Albert: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as Members all know, this is the first suspension bill of the 91st Congress. Normally the Speaker would not recognize Members to call up bills under suspension of the rules this early in the term and without committee consideration. The only reason that this method has been used on this occasion is that it presents to the House the opportunity to consider this legislation before the new President takes office. Members know that under article II, section 1, clause 7, of the Constitution the salary of the President of the United States cannot be increased during his term of office. Therefore, if the matter is to be handled at all, it must be passed by both Houses of Congress and signed by the President before noon on January 20. Members further know, Mr. Speaker, that committee assignments have not been made and will not be made in time for normal hearings and proceedings to be had in order to consider this bill by the deadline.

In view of these circumstances, the distinguished minority leader and the distinguished chairman and ranking member of the Committee on Post Office and Civil Service and myself have jointly offered this resolution for the consideration of the Members of the House.

The House agreed to the motion.

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(21) 115 Cong. Rec. 172–76, 91st Cong. 1st Sess.

(1) John W. McCormack (Mass.).

§ 9.3 The Speaker has recognized a Member to move to suspend the rules and pass a Senate bill similar to a House bill which had been previously announced for consideration under the suspension procedure.

On Mar. 16, 1964,(2) Speaker John W. McCormack, of Massachusetts, recognized for a motion to suspend the rules and pass a Senate bill; and answered an inquiry relative thereto:

MR. [CHET] HOLIFIELD [of California]: Mr. Speaker, the bill H.R. 9711, to amend the Atomic Energy Act of 1954, is on the suspension calendar for today. However, a similar bill, S. 2448, has been passed by the other body. Therefore, in lieu of calling up H.R. 9711, I move to suspend the rules and pass the bill S. 2448. . . .

MR. [JOHN P.] SAYLOR [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. SAYLOR: Mr. Speaker, the House Calendar lists a bill to come up under suspension and it is a House bill. Does it not require unanimous consent to suspend the rules and take up a Senate bill?

THE SPEAKER: The Chair will advise the gentleman from Pennsylvania, under the rules of the House, the Speaker may recognize a Member on a motion to suspend the rules.

§ 9.4 The House under suspension of the rules passed a simple resolution paying from the contingent fund mileage and paying expenses in a contested election case.

On Aug. 7, 1948,(3) the House adopted, without debate, a simple resolution under suspension of the rules:

MR. [RALPH A.] GAMBLE [of New York]: Mr. Speaker, I move to suspend the rules and pass House Resolution 715.

The Clerk read as follows:

Resolved, That the Clerk of the House of Representatives is authorized and directed to pay to the Sergeant at Arms of the House of Representatives not to exceed $171,000 out of funds appropriated under the head "Contingent expenses of the Houses," fiscal year 1949, for additional mileage of Members of the House of Representatives, Delegates from Territories, and the Resident Commissioner from Puerto Rico, at the rate authorized by law.

Sec. 2. That the Clerk of the House of Representatives is authorized and directed to pay to Walter K. Granger, contestee, for expenses incurred in the contested-election case of Wilson versus Granger, as audited and recommended by the Committee on House Administration, $2,000, to be disbursed out of funds appropriated under the head "Contingent expenses of the House," fiscal year 1949.

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2. 110 CONG. REC. 5291, 88th Cong. 2d Sess.

3. 94 CONG. REC. 10247, 80th Cong. 2d Sess.

THE SPEAKER:[4] Is a second demanded? [After a pause.] The question is on suspending the rules and passing the resolution.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was passed.

§ 9.5 Under a motion to suspend the rules, a conference report was recommitted to a conference committee.

On Apr. 1, 1935,[5] Speaker Joseph W. Byrns, of Tennessee, recognized for a motion to suspend the rules following objection to a unanimous-consent request:

MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Speaker, I ask unanimous consent that the conference report on House Joint Resolution 117, making appropriations for relief purposes, be recommitted to the Committee of Conference.

MR. [JOHN] TABER [of New York]: Mr. Speaker, reserving the right to object, will the gentleman from Texas [Mr. Buchanan], explain why he wants to have the joint resolution recommitted?

MR. BUCHANAN: Mr. Speaker, there are several reasons.

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Speaker, I demand the regular order.

MR. TABER: Then I shall object, Mr. Speaker.

MR. WOODRUM: The gentleman is going to object anyway.

MR. TABER: Mr. Speaker, I object.

MR. BUCHANAN: Mr. Speaker, I move to suspend the rules and recommit the conference report on House Joint Resolution 117, making appropriations for relief purposes, to the Committee of Conference.

The House adopted the motion to suspend the rules, after House members of the conference committee explained that recommittal to conference was necessary in order to correct errors in the report.

§ 9.6 On suspension days, the motion to suspend the rules is admitted at the discretion of the Speaker, and he may decline to entertain such motions unless they have the approval of the Majority Leader.

On Aug. 2, 1948,[6] Speaker Joseph W. Martin, Jr., of Massachusetts, declined to recognize for a motion to suspend the rules and pass a bill and indicated the reason therefor:

MRS. [HELEN GAHAGAN] DOUGLAS [of California]: Mr. Speaker, I move to suspend the rules and discharge the Committee on Banking and Currency from further consideration of S. 866.

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[4] Joseph W. Martin, Jr. (Mass.).

[5] 79 CONG. REC. 4761–65, 74th Cong. 1st Sess.

[6] 94 CONG. REC. 9639, 80th Cong. 2d Sess.

The Speaker: The Chair does not recognize the gentlewoman for that purpose. The majority leader has already stated that there will be no suspensions today; and under the practice of the House, suspensions must be cleared through the majority leader. The gentlewoman is not recognized for that purpose.

Mrs. Douglas: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentlewoman will state it.

Mrs. Douglas: Under paragraph 1 of rule XXVII it is in order, is it not, for the Speaker to entertain a motion to suspend the rules?

The Speaker: Yes, it is within the discretion of the Speaker, and the Speaker states that he will not recognize any Member for that purpose without clearing it through the majority leader, and using that discretion merely refuses to recognize the gentlewoman from California.

Mrs. Douglas: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentlewoman will state it.

Mrs. Douglas: Today is the first Monday in August, and under the aforementioned rule individual Members may move to suspend the rules and pass important legislation. Do I understand clearly then that the Chair is exercising his discretion in denying the House to vote on the so-called Taft-Ellender-Wagner bill, even under the procedure requiring a two-thirds vote of the Members present?

The Speaker: The Chair will state that the rule has existed for more than 50 years, and in accordance with the procedure which has been followed by not only the present Speaker but every other Speaker, the Chair does not recognize the gentlewoman from California for that purpose.

Mrs. Douglas: Mr. Speaker, I ask unanimous consent for the present consideration of S. 866.

The Speaker: The Chair does not recognize the gentlewoman for that purpose.

Suspension Suspends All Rules

§ 9.7 A motion to suspend the rules (Rule XXVII) and pass a bill operates to suspend all rules in conflict with the motion; thus, a point of order will not lie against consideration of the bill on the ground that the committee report on the bill is unavailable.

On Sept. 16, 1968,[7] Speaker John W. McCormack, of Massachusetts, overruled a point of order against the consideration of a bill called up under suspension of the rules:

> The Speaker: Is a second demanded?
>
> Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, at the proper time I ask to be recognized to make a point of order against consideration of this bill.
>
> The Speaker: The Chair will state that if the gentleman proposes to make a point of order, this is the time to make it.

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[7] 114 Cong. Rec. 27029, 27030, 90th Cong. 2d Sess.

Mr. Gross: Mr. Speaker, I make a point of order against the consideration of the bill (H.R. 19136) on the ground that it violates rule XI, clause 26(e), in that it was reported from the committee without a quorum being present.

The Speaker: The Chair will state that the motion to suspend the rules suspends all rules, including the rule mentioned by the gentleman from Iowa.

§ 9.8 A motion to suspend the rules and pass a bill suspends all rules, including the Ramseyer rule, and a point of order would not lie as to any provision of the bill or against the report.

On Mar. 7, 1949,(8) Speaker Sam Rayburn, of Texas, indicated a point of order against the consideration of a bill brought up under suspension of the rules would not lie:

> Mr. [Carl] Vinson [of Georgia] (interrupting the reading of the bill): Mr. Speaker, I ask unanimous consent that the further reading of the bill as amended be dispensed with and that the same be printed in the Record at this point.
>
> The Speaker: Is there objection to the request of the gentleman from Georgia?
>
> Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, reserving the right to object, will that deprive any Member from making a point of order against the bill at this time?
>
> The Speaker: A motion to suspend the rules suspends all rules. Therefore, a point of order would not lie as to any provision of the bill.
>
> Mr. Marcantonio: Including the Ramseyer rule?
>
> The Speaker: Including the Ramseyer rule.

§ 9.9 Points of order may not be raised against a conference report which is being considered under a motion to suspend the rules.

On Aug. 20, 1937,(9) Mr. Marvin Jones, of Texas, moved to suspend the rules and adopt the conference report on H.R. 7667, the sugar bill of 1937, after Mr. Millard F. Caldwell, of Florida, indicated he wished to make a point of order against the conference report. Speaker William B. Bankhead, of Alabama, answered a parliamentary inquiry on the effect of the motion as to points of order against the report:

> Mr. Caldwell: Mr. Speaker, as I stated, I don't want to waive any rights that I have to make a point of order on the conference report.
>
> Mr. Jones: If the House agrees to suspend the rules, that suspends all rules and does away with points of order.

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8. 95 Cong. Rec. 1942, 1943, 81st Cong. 1st Sess.

9. 81 Cong. Rec. 9463, 9464, 75th Cong. 1st Sess.

Mr. Caldwell: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Caldwell: Am I to understand that if the rules are suspended the point of order will not lie to the conference report?

The Speaker: A motion to suspend the rules, if agreed to, suspends all rules. It must be adopted by a two-thirds vote. That would include a point of order against the conference report.

Mr. Caldwell: Then, Mr. Speaker if this report actually exceeds the authority of the conferees by including matters neither in the House nor the Senate bill, am I given to understand that the suspending of the rules will prevent the making of a point of order on that account?

The Speaker: The motion to suspend the rules, if adopted by a two-thirds vote, waives the right of any Member to make a point of order against the conference report.

§ 9.10 Where a bill is being considered under suspension of the rules, a point of order will not lie against the bill on the ground that a quorum was not present when the bill was reported from committee, since the motion to suspend the rules and pass the bill has the effect of suspending all rules in conflict with the motion.

On Oct. 7, 1968,[10] Mr. Durward G. Hall, of Missouri, propounded a parliamentary inquiry relative to the fact that there were scheduled to be brought up under suspension of the rules on that day four bills from the Committee on Post Office and Civil Service which were reported in violation of Rule XI clause 26(e) [Rule XI clause 2(l)(2)(A) in the *House Rules and Manual* (1979)], which requires a quorum of a committee to be present when a bill is ordered reported. Speaker John W. McCormack, of Massachusetts, indicated that the point of order would not lie when the bill was brought up under suspension:

> Mr. Hall: . . . Mr. Speaker, I submit that the bills S. 1507, S. 1190, H.R. 17954, and H.R. 7406 all were improperly reported. Mr. Speaker, my parliamentary inquiry is this: At what point in the proceedings would it be in order to raise the question against these bills as being in violation of rule XI, clause 26(e) inasmuch as they are scheduled to be considered under suspension of the rules, which would obviously suspend the rule I have cited?
>
> Mr. Speaker, I ask the guidance of the Chair in lodging my point of order against these listed bills so that my objection may be fairly considered, and so that my right to object will be

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[10] 114 Cong. Rec. 29764, 90th Cong. 2d Sess.

protected. Mr. Speaker, I intend to do so only because orderly procedure must be based on compliance with the rules of the House which we have adopted.

The Speaker: The Chair will state that any point of order would have to be made when the bill is called up.

The Chair might also advise or convey the suggestion to the gentleman from Missouri that the bills will be considered under suspension of the rules, and that means suspension of all rules.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry. Would it not be in order, prior to the House going into the Consent Calendar or suspension of the rules, to lodge the point of order against the bills at this time?

The Speaker: The point of order could be directed against such consideration when the bills are called up under the general rules of the House. The rules we are operating under today as far as these bills are concerned concerns suspension of the rules, and that motion will suspend all rules.

Mr. Hall: Mr. Speaker, if I may inquire further, is it not true that, until such time as we go into that period of suspension of the rules, a point of order would logically lie against such bills which violate the prerogatives of the House and of the individual Members thereof, to say nothing of the committee rules? My belief that a point of order should be sustained is based on improper committee procedure and addresses itself to the fact that the bills are improperly scheduled, listed, or programed on the calendar, or rule of suspension, and so forth.

The Speaker: The Chair will state, as to points of order, at the time the Chair answered the specific inquiry of the gentleman from Missouri, a point of order would not lie until the bill is reached and brought up for construction.

Mr. Hall: Mr. Speaker, may I be recognized at that time to lodge such a point of order, and will this Member be protected?

The Speaker: The Chair will always protect the rights of any Member. The Chair has frankly conveyed to the gentleman that we are operating under a suspension of the rules procedure today, and that suspends all rules.

Mr. [Leslie C.] Arends [of Illinois]: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Arends: Do I correctly understand the ruling of the Chair that suspending all the rules pertains to more than just the House; it pertains to the rules of committee action likewise?

The Speaker: The gentleman from Illinois is correct.

Mr. Arends: I thank the Speaker.

§ 9.11 The Speaker has indicated that a point of order will not lie under Rule XXI against a provision transferring or appropriating funds contained in a legislative bill being considered under a motion to suspend the rules.

On Oct. 18, 1971,(11) Speaker Carl Albert, of Oklahoma, answered a parliamentary inquiry as to the

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11. 117 Cong. Rec. 36507, 36508, 92d Cong. 1st Sess.

effect of suspension of the rules where a bill violated Rule XXI clause 4:[12]

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, my parliamentary inquiry is that inasmuch as section 7 of this House Joint Resolution 923 would under normal circumstances and methods of consideration obviously be subject to a point of order because it involves a transfer of funds in an authorization bill, at what point under the motion to suspend the rules could such a point of order be offered?

The Speaker: The Chair will state to the gentleman from Missouri that the motion made by the gentleman from Kentucky [Mr. Perkins], itself calls for a suspension of the rules, which means all the rules, and, therefore, there would be no point in the consideration of the joint resolution under a suspension of the rules to make that point of order.

Mr. Hall: Mr. Speaker, a further parliamentary inquiry. Does the Chair mean to inform the Members of the House that the only way that we could get redress and relief from what would otherwise be a point of order, would be if the committee moved to suspend the rules and pass the bill with an amendment deleting that section?

The Speaker: The Chair will advise the gentleman from Missouri that the joint resolution comes to the floor under a motion to suspend the rules and pass it with amendments. The amendments will be under consideration, but only the amendments which are embraced in the motion made by the gentleman from Kentucky are in order.

Mr. Hall: Therefore, if this motion passes and we do suspend the rules, unless the gentleman making the motion yielded for the purpose of an amendment there would be no way to seek relief?

The Speaker: The Chair will inform the gentleman from Missouri that the gentleman who is making the motion to suspend the rules and pass this joint resolution cannot yield for the purpose of further amendment.

§ 9.12 A motion to suspend the rules and pass a bill suspends all rules, and points of order against reference of the bill are not entertained.

On June 21, 1943,[13] the Speaker pro tempore, Jere Cooper, of Tennessee, overruled a point of order against the consideration of a bill brought up under suspension of the rules:

Mr. [John] Lesinski [of Michigan]: Mr. Speaker, a point of order.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Lesinski: Mr. Speaker, I make the point of order that the bill is improperly brought in by the Committee on World War Veterans' Legislation and that it belongs to the Committee on Invalid Pensions.

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[12] *House Rules and Manual* § 846 (1973). [Now Rule XXI clause 5, *House Rules and Manual*, § 846 (1979).]

[13] 89 Cong. Rec. 6209, 78th Cong. 1st Sess.

THE SPEAKER PRO TEMPORE: The point of order comes too late. The committee has reported the bill, and it is now under consideration under a suspension of the rules.

MR. LESINSKI: I know; but Mr. Speaker, the bill was brought in to the Committee on World War Veterans' Legislation in typewritten form on one day, passed the same day, and filed the same day. There was no time for the chairman of any other committee to make an objection at the time.

MR. [JOHN E.] RANKIN [of Mississippi]: The gentleman from Michigan does not know it, but a motion to suspend the rules suspends all rules.

THE SPEAKER PRO TEMPORE: The purpose of a motion to suspend the rules, of course, is to suspend all rules of the House.

Adoption of Orders of Business

§ 9.13 Objection being made to a unanimous-consent request to take a House joint resolution with Senate amendments from the Speaker's table, disagree to the Senate amendments, and agree to a conference, the Speaker recognized the Member in charge for a motion to suspend the rules and pass a resolution which would accomplish such end.

On July 6, 1943,[14] Speaker Sam Rayburn, of Texas, recognized for a motion to suspend the rules upon objection to a unanimous-consent request:

MR. [HENRY B.] STEAGALL [of Alabama]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 147) to continue the Commodity Credit Corportion as an agency of the United States, to increase its borrowing power, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

MR. [CLARENCE] CANNON of Missouri: Reserving the right to object, Mr. Speaker, I would not consent to the joint resolution being sent to conference, but I would be willing to accede to the gentleman's request if he will modify it by asking that we take the joint resolution from the table and consider the Senate amendments at this time.

MR. STEAGALL: Mr. Speaker, I withdraw the request.

Mr. Speaker, I move to suspend the rules and agree to the resolution which I sent to the Clerk's desk.

The Clerk read the resolution (H. Res. 292), as follows:

> *Resolved,* That immediately upon the adoption of this resolution, the joint resolution, House Joint Resolution 147, with Senate amendments thereto, be and the same hereby is taken from the Speaker's table, the Senate amendments disagreed to, and the conference requested by the Senate agreed to.

§ 9.14 The House agreed, under suspension of the rules, to a

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[14] 89 CONG. REC. 7309 78th Cong. 1st Sess.

resolution providing that the House insist upon its amendment to a Senate bill, ask a conference, and that the Speaker immediately appoint conferees.

On June 18, 1948,(15) the House agreed to the following resolution brought up under suspension of the rules:

> MR. [WALTER G.] ANDREWS of New York: Mr. Speaker, I move to suspend the rules and pass the resolution, House Resolution 690, which I send to the desk.
>
> THE SPEAKER:(16) The Clerk will report the resolution.
>
> The Clerk read as follows:
>
> *Resolved,* That the House insist upon its amendment to S. 2655, ask a conference with the Senate on the disagreeing votes, and that the Speaker immediately appoint conferees.

Parliamentarian's Note: Where the resolution sought to be passed is presented in this form, providing that the Speaker immediately appoint conferees, a motion to instruct conferees is precluded.(17)

§ 9.15 The House may suspend its rules and pass a resolution to take from the Speaker's table a House bill with Senate amendment and to agree to the Senate amendment.

On Aug. 7, 1948,(18) the House agreed to a resolution, providing an order of business, brought up under suspension of the rules:

> *Resolved, etc.,* That immediately upon the adoption of this resolution the bill (H.R. 6959) to amend the National Housing Act, as amended, and for other purposes, with the Senate amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment be, and the same is hereby, agreed to.

The House agreed to a similar resolution under suspension on Aug. 16, 1954:(19)

> *Resolved, etc.,* That immediately upon the adoption of this resolution the bill H.R. 6672, with the Senate amendment thereto, be, and the same hereby is, taken from the Speaker's table, to the end that the Senate amendment be, and the same is hereby, agreed to.

§ 9.16 The House suspended the rules and passed a resolution taking from the Speaker's table an appropriation bill with Senate amendments thereto, further insisting on disagreement to the Senate amendments, agreeing to a further conference, and author-

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(15) 94 CONG. REC. 8829, 8830, 80th Cong. 2d Sess.

(16) Joseph W. Martin, Jr. (Mass.).

(17) See § 13.17, infra.

(18) 94 CONG. REC. 10197, 80th Cong. 2d Sess.

(19) 100 CONG. REC. 14631-35, 83d Cong. 2d Sess.

izing the Speaker to immediately appoint conferees without intervening motion, subsequent to objection to a unanimous-consent request therefor.

On July 27, 1956,(20) objection was made to a unanimous-consent request by Mr. Clarence Cannon, of Missouri, to take from the Speaker's table a House appropriation bill with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

Later on the same day, Mr. Cannon moved to suspend the rules and pass a resolution to accomplish the same result (the House agreed to the motion):(1)

> MR. CANNON: Mr. Speaker, I move to suspend the rules and pass the resolution (H. Res. 648).
>
> The Clerk read as follows:
>
> *Resolved*, That immediately upon the adoption of this resolution the bill H.R. 12350, with the Senate amendments thereto, be, and the same is hereby taken from the Speaker's table; that the House further insists on disagreement to the Senate amendments and agrees to the further conference requested by the Senate, and the Speaker shall immediately appoint the conferees without intervening motion.
>
> THE SPEAKER:(2) Is a second demanded? [After a pause.] The Chair hears no request for a second.
>
> The question is on suspending the rules and passing the resolution.
>
> The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was passed.
>
> THE SPEAKER: The Chair appoints as conferees on the part of the House: Messrs. Cannon, Kirwan, Gary, Taber, and Phillips.

§ 9.17 The Majority Leader was recognized to offer a motion to suspend the rules and agree to a resolution authorizing the Speaker to declare recesses for the remainder of the session.

On Dec. 21, 1970,(3) the Majority Leader was recognized for a motion to suspend the rules (a unanimous-consent request having been objected to):

> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that it shall be in order during the remainder of this session for the Speaker to declare a recess at any time subject to the call of the Chair.
>
> THE SPEAKER:(4) Is there objection to the request of the gentleman from Oklahoma?
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I object.
>
> THE SPEAKER: Objection is heard.

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20. 102 CONG. REC. 15158, 84th Cong. 2d Sess.
1. *Id.* at p. 15169.
2. Sam Rayburn (Tex.).
3. 116 CONG. REC. 43069, 91st Cong. 2d Sess.
4. John W. McCormack (Mass.).

Mr. Albert: Mr. Speaker, I offer a resolution and move to suspend the rules and adopt the resolution (H. Res. 1317), making it in order for the Speaker to declare a recess at any time, subject to the call of the Chair.

The Clerk read as follows:

H. Res. 1317

Resolved, That during the remainder of this session it shall be in order for the Speaker to declare a recess at any time, subject to the call of the Chair.

The Speaker: Is a second demanded?

Mr. Gross: Mr. Speaker, I demand a second, and I make a point of order that a quorum is not present.

The Speaker: Without objection, a second will be considered as ordered.

Mr. Albert: Mr. Speaker, I withdraw the resolution until a later time in the day.

The Speaker: The gentleman from Oklahoma withdraws his resolution at the present time.

Mr. Gross: Mr. Speaker, I withdraw the point of order.

Parliamentarian's Note: Once a second has been ordered (or considered as ordered by unanimous consent) on a motion to suspend the rules, unanimous consent is required to withdraw the motion.

§ 9.18 The House, under a motion to suspend the rules, passed a resolution extending the time for debate on a motion to suspend the rules, and making said motion the unfinished business until disposed of.

On Sept. 20, 1943,[5] a resolution providing for the consideration of a motion to suspend the rules was itself brought up and passed under suspension of the rules:

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I move to suspend the rules and pass the resolution (H. Res. 302), which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the time for debate on a motion to suspend the rules and pass House Concurrent Resolution 25 shall be extended to 4 hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and said motion to suspend the rules shall be the continuing order of business of the House until finally disposed of.

Passage of Measures Submitted From the Floor

§ 9.19 A resolution may be submitted from the floor and immediately considered under suspension of the rules without referral to committee.

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[5] 89 Cong. Rec. 7646–55, 78th Cong. 1st Sess.

H. Con. Res. 25 expressed the sense of Congress favoring creation of international machinery to establish and maintain lasting peace and favoring U.S. participation therein.

On Sept. 17, 1962,(6) Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, moved to suspend the rules and pass House Resolution 800 (taking a House bill with Senate amendments from the Speaker's table, and agreeing to such amendments), where the resolution was submitted directly from the floor as opposed to being introduced and referred to committee. After debate, the vote on the motion was postponed to a later day pursuant to a previous order.

Parliamentarian's Note: A resolution submitted from the floor and immediately considered under suspension of the rules is not referred to committee and is normally printed only "as agreed to." If the resolution is not agreed to, it is printed "as submitted." Where however, as on this occasion, the vote on the motion is postponed to a later day, the resolution is first printed "as submitted" and if the resolution is adopted then printed "as agreed to."

Passage of Appropriation Bills

§ 9.20 A general appropriation bill was called up under suspension of the rules during the final week of a Congress, motions to suspend the rules having been made in order at any time during that week.

On Aug. 22, 1958,(7) Mr. Albert Thomas, of Texas, moved to suspend the rules and pass H.R. 13856, a general appropriation bill making appropriations for sundry independent executive agencies. The House had previously agreed to a unanimous-consent request, on Aug. 20, authorizing the Speaker, Sam Rayburn, of Texas, to recognize for motions to suspend the rules during the balance of the week. The House adjourned on Aug. 24.

Another occasion where a general appropriation bill was passed under suspension of the rules occurred on July 2, 1942, where Mr. Malcolm C. Tarver, of Georgia, moved to suspend the rules and pass the agricultural appropriation bill for 1943. The bill passed under suspension contained matters presently in agreement between House and Senate conferees on the regular appropriation bill, at that time in conference. Expedited action was necessary due to the payroll requirements of the Department of Agriculture. Following the adoption of the motion to suspend the rules

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6. 108 Cong. Rec. 19610, 87th Cong. 2d Sess.

7. 104 Cong. Rec. 19175, 85th Cong. 2d Sess.

and pass the bill, it was messaged to the Senate, where it was referred to committee and not immediately considered.[8]

Passage of Constitutional Amendments

§ 9.21 An amendment to the Constitution may be passed under a motion to suspend the rules.

On Dec. 5, 1932,[9] Mr. Henry T. Rainey, of Illinois, moved to suspend the rules and pass House Joint Resolution 480, proposing an amendment to the Constitution of the United States, repealing the 18th amendment to the Constitution. Two-thirds failed to vote in favor thereof and the motion was rejected.

On Aug. 27, 1962, Speaker John W. McCormack, of Massachusetts, recognized Mr. Emanuel Celler, of New York, to move to suspend the rules and pass Senate Joint Resolution 29, proposing an amendment to the Constitution of the United States to abolish nonpayment of a poll tax as a bar to voting in federal elections; the House had previously agreed to a request authorizing the Speaker to recognize for motions to suspend the rules on the fourth Monday of the month. Before Mr. Celler was recognized, a demand was made that the Journal be read in full, and three quorum calls and two record votes on dispensing with further proceedings under the calls interrupted such reading.[10]

The House adopted the motion and the joint resolution was passed. The joint resolution was, pursuant to title I, United States Code, section 106b, presented to the Administrator of General Services for ratification by the states, and was ratified as the 24th amendment to the Constitution.[11]

Parliamentarian's Note: The requirement of Rule XXVII clause 1 that a motion to suspend the rules passed by a two-thirds vote satisfied the requirement of article V of the United States Constitution that a proposed amendment thereto pass the House by a two-thirds vote (of those Members present and voting).

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[8] 88 Cong. Rec. 5953-61, 77th Cong. 2d Sess.

[9] 76 Cong. Rec. 7-13, 72d Cong. 2d Sess.

[10] 108 Cong. Rec. 17654-70, 87th Cong. 2d Sess.

[11] See also 96 Cong. Rec. 10427, 81st Cong. 2d Sess., July 17, 1950, where a motion to suspend the rules and pass S.J. Res. 2, proposing an amendment to the Constitution providing for a method of electing the President and Vice President, was rejected by the House.

Passage of Emergency Legislation

§ 9.22 Immediately after a joint session to hear the President was dissolved, the House suspended the rules and passed a bill recommended by the President to settle a labor strike.

On May 25, 1946,(12) a joint session was held in the House Chamber in order to hear an address from President Harry S. Truman; the President recommended the urgent passage of legislation to settle existing national strikes which had halted all rail transportation. Immediately following the President's address, the legislation which he had recommended was passed under suspension of the rules:

> The recess having expired, the House was called to order by the Speaker at 4 o'clock and 34 minutes p.m.
>
> TEMPORARY INDUSTRIAL DISPUTES SETTLEMENT ACT
>
> THE SPEAKER [Sam Rayburn, of Texas]: The Chair recognizes the gentleman from Massachusetts [Mr. McCormack].
>
> MR. [JOHN W.] MCCORMACK: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6578) to provide on a temporary basis during the present period of emergency for the prompt settlement of industrial disputes vitally affecting the national economy in the transition from war to peace. . . .
>
> THE SPEAKER: Is a second demanded?
>
> MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I demand a second.
>
> THE SPEAKER: Is the gentleman opposed to the bill?
>
> MR. MARCANTONIO: I am, Mr. Speaker.
>
> MR. MCCORMACK: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Massachusetts [Mr. McCormack]?
>
> There was no objection.

After debate the following proceedings occurred:

> THE SPEAKER: . . . The question is on the motion to suspend the rules and pass the bill.
>
> MR. MCCORMACK: Mr. Speaker, on that I ask for the yeas and nays.
>
> The yeas and nays were ordered.
>
> The question was taken; and there were—yeas 306, nays 13, not voting 112.

§ 9.23 The motion to suspend the rules is sometimes used to expedite the passage of emergency legislation; thus, the House agreed to suspend the rules and pass a joint resolution extending for 20 days the period of negotiation under the Railway Labor

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12. 92 CONG. REC. 5752-62, 79th Cong. 2d Sess.

Act, thereby averting a threatened railway strike deadline less than 48 hours away.

On Apr. 11, 1967,(13) Mr. Harley O. Staggers, of West Virginia, moved to suspend the rules (pursuant to a unanimous-consent agreement obtained Apr. 10 making such motion in order) and pass House Joint Resolution 493, to extend for 20 days the period of negotiations under the Railway Labor Act. The House agreed to the motion and passed the bill, thus averting a threatened railway strike less than 48 hours away.

Parliamentarian's Note: The use of the motion to suspend the rules on this date demonstrates rapid congressional action to meet a threatened emergency.

The President met with congressional leaders at the White House early on the morning of Apr. 10, and explained that the threatened strike deadline was midnight Wednesday, Apr. 12. The President was leaving for Uruguay for a meeting of American heads of State on the 11th and would be out of the country for the remainder of the week.

A Presidential message and a draft of legislation was delivered to both Houses of Congress on the 10th. The House Committee on Interstate and Foreign Commerce met and ordered the resolution (H.J. Res. 493) reported late that afternoon. The committee had secured permission for filing the report after the adjournment of the House. (H. Rept. No. 182.)

The Senate and House both took up identical versions of the resolution on Tuesday, Apr. 11. The Senate completed action first. Senate Joint Resolution 65 was messaged to the House just as the House completed action on its version. The House thus accepted the Senate resolution, taking it up and passing it by unanimous consent.

The Senate enrolling clerk had in advance enrolled the bill, which was signed by both the Speaker and the Vice President that same afternoon and was at the White House by 5:30 p.m. that evening.

After White House processing, the bill was flown by helicopter to Andrews Air Force Base where an Air Force jet was waiting to fly to Uruguay. The joint resolution was signed by the President on Apr. 12, in Uruguay, and became Public Law No. 90–10.

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13. 113 Cong. Rec. 8987–90, 90th Cong. 1st Sess.

§ 9.24 The Speaker stated, in recognizing a Member for a unanimous-consent request to consider a bill, that if any amendments were offered he would ask the Member to withdraw the request and to move to suspend the rules and pass the bill because of the vital importance that the bill pass immediately and without amendment.

On July 5, 1943,[14] Speaker Sam Rayburn, of Texas, recognized a Member for a unanimous-consent request:

USE OF GOVERNMENT-OWNED SILVER FOR WAR PURPOSES

THE SPEAKER: The Chair recognizes the gentleman from Michigan [Mr. Dingell].

MR. [JOHN D.] DINGELL: Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 35) to authorize the use for war purposes of silver held or owned by the United States.

The Clerk read the title of the bill.

The House discussed the bill under the reservation of the right to object, and the Speaker then answered a parliamentary inquiry as follows:

MR. [FREDERICK C.] SMITH of Ohio: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SMITH of Ohio: It is my understanding this bill will be read and will be subject to amendment, providing there is no objection to its consideration under the unanimous-consent request.

THE SPEAKER: The gentleman is correct, it would be subject to amendment, but the Chair is going to be very frank with the gentleman. If there are going to be amendments offered to this bill the Chair will request the gentleman from Michigan to withdraw his request, and then the Chair will recognize the gentleman from Michigan to move to suspend the rules and pass the bill. The Chair thinks it vitally important that this bill pass immediately, and he thinks it should be passed without amendment. The Chair will accept the responsibility if it is put up to the Chair.

§ 10. When in Order

Rule XXVII clause 1[15] specifies the days on which motions to suspend the rules are in order:

> No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on Mondays and Tuesdays, and during the last six days of a session.[16]

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[14] 89 CONG. REC. 7213, 7214, 78th Cong. 1st Sess.

[15] *House Rules and Manual* § 902 (1979).

[16] The rule was amended in the 93d and 95th Congresses to afford additional days of the month for motions to suspend the rules (see § 10.1 infra).

The House may, however, vary the order of business (by unanimous consent, resolution, or suspension of the rules) in order to authorize the Speaker to recognize for motions to suspend the rules on days not specified in the rule.(17) And where such a request is agreed to, the consideration of a motion to suspend the rules on the day designated, if the Speaker recognizes for that purpose, is privileged.(18)

In the absence of an extraordinary request, the further consideration of a motion to suspend the rules which is unfinished at adjournment is in order on the next day on which motions to suspend the rules are in order.(19) However, that regular order may be varied. For example, the further consideration of a motion to suspend the rules may be made in order on a day to which all roll call votes have been postponed.(20) Or a special order may provide that a motion to suspend the rules remain the unfinished business until disposed of.(1)

Regular Suspension Days

§ 10.1 The 93d Congress adopted rules with an amendment of Rule XXVII clause 1 to authorize the Speaker to recognize for motions to suspend the rules on the first and third Mondays of each month and on the Tuesdays immediately following those Mondays (and eliminating the distinction between committee motions and motions by Members). Further amendments were adopted in the 95th Congress.

On Jan. 3, 1973,(2) the House adopted House Resolution 6, adopting the rules of the 92d Congress with certain amendments as the rules of the 93d Congress. One of the amendments changed Rule XXVII clause 1, on motions to suspend the rules:

> In Rule XXVII, clause 1 is amended to read as follows:

The "last six days of a session" cannot be determined unless a concurrent resolution for adjournment *sine die* has been adopted or unless the House is within six days of the time that Congress expires pursuant to the 20th amendment to the Constitution (see §§ 10.8–10.10, infra).

17. See §§ 10.2–10.7, infra. The request may either authorize the Speaker to recognize for any motion to suspend the rules, or may designate a certain bill or bills to be affected.
18. See § 10.7, infra. For recognition in relation to motions to suspend the rules, see § 11, infra.
19. See §§ 10.11, 10.12, infra.
20. See § 10.13, infra.
1. See § 10.14, infra.
2. 119 Cong. Rec. 17–26, 93d Cong. 1st Sess.

> "No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month, and on the Tuesdays immediately following those days, and during the last six days of a session."(3)

Prior to the adoption of the resolution, the Majority Leader discussed, in answer to opposition from the minority, the reason for the change in the suspension rule:

> MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, I am truly amazed that there is so much opposition from the other side. I thought if there were really going to be any debate on this floor today, it would probably be on the policy of the war. I did not think we would debate a matter of this type.
>
> We are discussing two bills. One is whether or not we would have 2 extra suspension days in the month. Why did we offer this particular rules change? We offered it because we thought it was good reform. This change is no secret to the Members assembled here today. The newspapers have been writing about it; various organizations who want to reform the Congress have also been discussing the proposal. They have complained because on one day we had 46 suspension bills, which made for a long night session.
>
> Is this a way to legislate? Why should we not have quit at 8 o'clock that night and brought up the remaining suspensions the next day?
>
> That is what we have in mind. That is what we would like to do. We do not want to go until 2 or 3 o'clock in the morning.
>
> How does a bill get on the Suspension Calendar, the gentleman from New Hampshire wants to know. I am sure the minority leader knows. Although the chairman of the committee goes to the Speaker, he always clears the legislation with the minority member of the committee.(4)

Parliamentarian's Note: Prior to its amendment in the 93d Congress, Rule XXVII clause 1 read as follows:

> No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month, preference being given on the first Monday to individuals and on the third Monday to committees, and during the last six days of a session.

This clause of the rule was further amended in the 95th Congress to authorize the Speaker to recognize for motions to suspend the rules on every Monday and Tuesday. H. Res. 5, 95th Cong. 1st Sess., Jan. 4, 1977.

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3. *House Rules and Manual* § 902 (1973).

4. 119 CONG. REC. 21, 93d Cong. 1st Sess.

§ 10.2 The applicable rule (Rule XXVII clause 1) specifies the days of the month on which the motion is in order; however, by unanimous consent, it may be made in order for the Speaker to recognize a Member or Members on any given day to move to suspend the rules and pass a bill or bills.

On July 28, 1959,[5] the House agreed to a request making in order a motion to suspend the rules:

Mr. [Clarence] Cannon [of Missouri]: Mr. Speaker, I ask unanimous consent that it may be in order tomorrow for the Chair to recognize me to move to suspend the rules and pass a joint resolution making temporary appropriations for the month of August.

The Speaker:[6] Is there objection to the request of the gentleman from Missouri?

There was no objection.

On Feb. 7, 1966,[7] a similar unanimous-consent request was agreed to:

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I ask unanimous consent that it may be in order on any day this week other than today for the Speaker to recognize a motion to suspend the rules and pass the bill (H.R. 12563) to provide for participation of the United States in the Asian Development Bank, a bill which has been unanimously reported by the Committee on Banking and Currency.

The Speaker:[8] Is there objection to the request of the gentleman from Oklahoma?

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, reserving the right to object, do I understand that granting this unanimous-consent request would enable the House to take up under suspension of the rules perhaps tomorrow a bill to create a brand new international bank to go along with the existing multiplicity of international banks and other lending agencies? I am one of those Members of the House who has never seen a copy of the bill. I have had no opportunity to read the hearings or to know anything about the bill. Yet the bill would embark the United States upon the expenditure of perhaps billions of dollars.

Mr. Albert: This, of course, would not preclude the gentleman from reading the bill or the report, because I have specifically requested that consideration of the bill not be made in order until tomorrow or some later day in the week.

A similar request was agreed to on Apr. 10, 1967:[9]

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow or Wednesday for the Speaker to recognize, under suspension of rules, a motion or joint resolution covering the subject matter of extending the period for making no change in conditions under section 10 of the Railway Labor Act applicable in the current dispute between the railroad carriers represented by the National Railway Labor Conference and certain of their employees.

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[5] 105 Cong. Rec. 14475, 86th Cong. 1st Sess.

[6] Sam Rayburn (Tex.).

[7] 112 Cong. Rec. 2292, 89th Cong. 2d Sess.

[8] John W. McCormack (Mass.).

[9] 113 Cong. Rec. 8729, 90th Cong. 1st Sess.

THE SPEAKER:(10) Is there objection to the request of the gentleman from Oklahoma?

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, reserving the right to object, and I do not intend to object, as I understand it, the need and necessity for such action is predicated on the possibility that if such action is not taken affirmatively, the Nation could be faced with a very critical and very serious rail strike beginning 1 minute after midnight this coming Wednesday. Is that correct?

MR. ALBERT: The gentleman is correct.

MR. GERALD R. FORD: Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER: Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Another such request was made on Aug. 9, 1972:(11)

MR. [JOHN J.] MCFALL [of California]: Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause 1, rule XXVII, it shall be in order for the Speaker to entertain motions to suspend the rules on Monday, August 14, 1972.

THE SPEAKER:(12) Is there objection to the request of the gentleman from California?

There was no objection.

Varying Suspension Days

§ 10.3 The House by resolution may authorize the Speaker to recognize for motions to suspend the rules on a day other than that provided by Rule XXVII.

On Aug. 21, 1961,(13) objection was made to a unanimous-consent request relating to the order of business, and the same objective was therefore accomplished by the adoption of a resolution (under suspension of the rules):

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I ask unanimous consent that it be in order at any time on Tuesday, August 22, 1961, for the Speaker to entertain motions to suspend the rules.

In making this unanimous-consent request I might say that Nos. 17 and 19 on today's program will not be subject to that unanimous-consent request.

THE SPEAKER PRO TEMPORE:(14) Is

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10. John W. McCormack (Mass.).
11. 118 CONG. REC. 27532, 92d Cong. 2d Sess.
12. Carl Albert (Okla.).
13. 107 CONG. REC. 16562, 87th Cong. 1st Sess.
14. Carl Albert (Okla.).

there objection to the request of the gentleman from Massachusetts? . . .

Objection is heard.

Mr. McCormack: Mr. Speaker, I move to suspend the rules and agree to House Resolution 422.

The Clerk read the resolution, as follows:

> *Resolved*, That it shall be in order for the Speaker at any time on Tuesday, August 22, 1961, to entertain motions to suspend the rules.

The Speaker Pro Tempore: The question is, Will the House suspend the rules and agree to the resolution?

§ 10.4 The Speaker has been authorized to recognize for suspensions during the remainder of the session.

On Sept. 11, 1959,(15) the House agreed to a unanimous-consent request relating to the order of business for the remainder of the session:

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I ask unanimous consent that it shall be in order during the remainder of this session of Congress to consider conference reports the same day reported, notwithstanding the provisions of clause 2 of rule XXVIII; that reports from the Committee on Rules may be considered at any time, notwithstanding the provisions of clause 22 of rule XI; for the Speaker to declare recesses subject to the call of the Chair; and for the Speaker to recognize Members to move to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII.

§ 10.5 By unanimous consent, the Speaker was given authority to recognize for motions to suspend the rules and pass certain bills on a date to be agreed upon by himself and the Majority and Minority Leaders.

On Aug. 17, 1964,(16) the House agreed to a unanimous-consent request made by the Majority Leader:

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I ask unanimous consent that it shall be in order for the Speaker to recognize for motions to suspend the rules and pass the bills remaining undisposed of on the whip notice today on a day to be agreed upon by the Speaker, the majority leader, and the minority leader.

The Speaker:(17) Is there objection to the request of the gentleman from Oklahoma? . . .

There was no objection.

The Speaker: The Chair will state that if arrangements can be worked out on this or any other bill, through a unanimous-consent request, where the matter has been carefully screened, the Chair will be glad to recognize for that purpose. That does not mean today. It means sometime this week, if it is carefully screened through the leader-

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15. 105 Cong. Rec. 19128, 86th Cong. 1st Sess.

16. 110 Cong. Rec. 19943, 19944, 88th Cong. 2d Sess.

17. John W. McCormack (Mass.).

ship. Members are protected in the knowledge that the screening has taken place.

§ 10.6 The Speaker has been authorized, by unanimous consent, to recognize for motions to suspend the rules and pass certain bills listed on the whip notice but not reached on the regular suspension day.

On Dec. 15, 1969,(18) the House agreed to a unanimous-consent request put by the Majority Leader:

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday, December 16, 1969—that is tomorrow—for the Speaker to recognize motions to suspend the rules and pass the bills beginning with No. 11 listed on the whip notice of December 12, 1969.

The Speaker:(19) Is there objection to the request of the gentleman from Oklahoma?

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, reserving the right to object, do I understand that there would be no additions of any nature to the list of suspensions?

Mr. Albert: Mr. Speaker, if the gentleman will yield, the gentleman is correct; it means No. 11 through No. 22 printed on the whip's notice.

Mr. Gross: Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The Speaker: Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

§ 10.7 Where a Member sought recognition to call up District of Columbia business on the fourth Monday (privileged under Rule XXIV clause 8) and another Member sought recognition to move to suspend the rules and agree to a joint resolution amending the Constitution (privileged pursuant to a unanimous-consent agreement making it in order on the fourth Monday for the Speaker to recognize Members to move suspension and passage of bills), the Speaker recognized for the motion to suspend the rules, the matters being of equal privilege.

On Aug. 27, 1962,(20) which was the fourth Monday of the month and therefore a day eligible for District of Columbia business, under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, recognized Mr. Emanuel Celler, of New York, to move to suspend the rules and pass a joint resolution (to amend the Constitution to prohibit the use of a poll tax as a qualification for voting) pur-

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18. 115 Cong. Rec. 39046, 91st Cong. 1st Sess.

19. John W. McCormack (Mass.).

20. 108 Cong. Rec. 17654, 17655, 87th Cong. 2d Sess.

suant to a previous unanimous-consent request making in order on that day motions to suspend the rules. The Speaker overruled a point of order against prior recognition for the motion to suspend the rules:

Mr. Celler: Mr. Speaker, I move to suspend the rules and pass Senate Joint Resolution 29, proposing an amendment to the Constitution of the United States relating to qualifications of electors.

Mr. [Thomas G.] Abernethy [of Mississippi]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state his point ot order.

Mr. Abernethy: Mr. Speaker, I make the point of order that this is District Day, that there are District bills on the calendar, and as a member of the Committee on the District of Columbia I respectfully demand recognition so that these bills may be considered.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, may I be heard on the point of order?

The Speaker: The Chair is prepared to rule, but the gentleman may be heard.

Mr. Albert: Mr. Speaker, by unanimous consent, suspensions were transferred to this day, and under the rules the Speaker has power of recognition at his own discretion.

Mr. Abernethy: Mr. Speaker, I respectfully call the attention of the chairman to clause 8, rule XXIV, page 432 of the House Manual. . . .

Mr. Speaker, I submit that rule is clear that when the time is claimed and the opportunity is claimed the Chair shall permit those bills to be considered.

Therefore, Mr. Speaker, I respectfully submit my point of order is well taken, and that I should be permitted to call up bills which are now pending on the calendar from the Committee on the District of Columbia.

Mr. [Howard W.] Smith of Virginia: Mr. Speaker, I should like to be heard on the point of order.

The Speaker: The Chair will hear the gentleman.

Mr. Smith of Virginia: Mr. Speaker, the rules of the House on some things are very clear, and the rules of the House either mean something or they do not mean anything.

Mr. Speaker, the gentleman from Mississippi [Mr. Abernethy], has just called to the Chair's attention clause 8 of rule XXIV. Nothing could be clearer; nothing could be more mandatory. I want to repeat it because I hope the Chair will not fall into an error on this proposition:

> The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only—

And that is all; that is all that you can consider—disposition of motions to discharge committees—

> and after the disposal of such business on the Speaker's table as requires reference only—

That is all that the Chair is permitted to consider.

Mr. Speaker, after that is done the day—

> shall when claimed by the Committee on the District of Columbia, be set apart for the consideration of such business as may be presented by said committee.

Mr. Speaker, I know that the majority leader bases his defense upon the theory that the House having given unanimous consent to hear suspensions on this Monday instead of last Monday when they should have been heard—and I doubt if very many Members were here when that consent order was made and I am quite sure that a great number of them had no notice that it was going to be made, and certainly I did not—now the majority leader undertakes to say that having gotten unanimous consent to consider this motion on this day to suspend the rules, therefore, it gives the Speaker carte blanche authority to do away with the rule which gives first consideration to District of Columbia matters.

Mr. Speaker, there was no waiver of the rule on the District of Columbia. That consent did not dispose or dispense with the business on the District of Columbia day. The rule is completely mandatory. The rule says that on the second and fourth Mondays, if the District of Columbia claims the time, that the Speaker shall recognize them for such dispositions as they desire to call.

The Speaker: The Chair is prepared to rule.

Several days ago on August 14 unanimous consent was obtained to transfer the consideration of business under suspension of the rules on Monday last until today. That does not prohibit the consideration of a privileged motion and a motion to suspend the rules today is a privileged motion. The matter is within the discretion of the Chair as to the matter of recognition.

Last Six Days of Session

§ 10.8 Pursuant to Rule XXVII clause 1, it is in order during the last six days of a session for the Speaker to recognize for motions to suspend the rules.

On Dec. 30, 1970,[1] Speaker John W. McCormack, of Massachusetts, recognized a Member to move to suspend the rules and pass a bill; the House agreed to the motion. Although Dec. 30 was not a first or third Monday of the month under Rule XXVII clause 1, it was within six days of the end of the session and motions to suspend the rules were therefore in order.[2]

Parliamentarian's Note: Although a resolution providing for adjournment *sine die* had not yet been adopted, the term of a session of Congress automatically expires at noon on Jan. 3 pursuant to section 1 of the 20th amendment to the U.S. Constitution.

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1. 116 Cong. Rec. 44170, 91st Cong. 2d Sess.
2. Rule XXVII clause 1, *House Rules and Manual* § 902 (1979).

§ 10.9 The provisions of Rule XXVII clause 1, which confer authority upon the Speaker to entertain motions to suspend the rules during the last six days of a session, are not applicable until both Houses have agreed to a concurrent resolution fixing a sine die adjournment date for the Congress (or until the final six days of a session under the Constitution).

On Oct. 3, 1972,(3) Speaker Carl Albert, of Oklahoma, indicated in response to a parliamentary inquiry that the last six days of a session, during which suspension motions are in order, cannot be determined until an adjournment resolution is passed:

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Gerald R. Ford: Is it not within the prerogative of the House to pass a resolution with a date certain and send it to the other body?

The Speaker: It is in the prerogative of the House to pass a resolution setting a date certain, but it is not within the prerogative of the Speaker to recognize for suspensions of rules until that sine die resolution passes the other body.

Mr. Gerald R. Ford: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Gerald R. Ford: To clarify, the House can pass such a resolution with a date certain?

The Speaker: Yes, the House could; but it would not be operable until agreed to by the Senate.

§ 10.10 The Speaker was authorized to recognize for suspensions from a Wednesday for the remainder of that week (just prior to adjournment sine die).

On Aug. 26, 1957,(4) a unanimous-consent request was agreed to:

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I ask unanimous consent that it be in order for the Consent Calendar to be called on Wednesday next, and that it also be in order for the Speaker to recognize on Wednesday next and the balance of the week for suspension of the rules.

The Speaker:(5) Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Unfinished Business

§ 10.11 A motion to suspend the rules remaining undisposed of at adjournment, after the conclusion of debate on one suspension day, goes over as unfinished business to the next suspension day.

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3. 118 Cong. Rec. 33501, 92d Cong. 2d Sess.

4. 103 Cong. Rec. 15968, 85th Cong. 1st Sess.

5. Sam Rayburn (Tex.).

On Aug. 5, 1935,(6) Speaker Joseph W. Byrns, of Tennessee, announced, on a suspension day, the order of business as to an unfinished motion to suspend the rules coming over from a previous suspension day:

> THE SPEAKER: When the House adjourned on the last suspension day there was under consideration the bill (S. 2865) to amend the joint resolution establishing the George Rogers Clark Sesquicentennial Commission, approved May 23, 1928. The question is on the motion to suspend the rules and pass the bill. This motion is, therefore, the unfinished business, as the Chair understands debate was concluded on the measure.

On Feb. 8, 1931, the House ordered a second on a motion to suspend the rules and then adjourned before concluding debate on the motion. The motion was resumed as unfinished business on the next day, Feb. 9, which was an eligible day for suspensions under Rule XXVII, the House being within the last six days of the session.(7)

Parliamentarian's Note: Where a portion of the 40 minutes of debate (20 minutes for each side) has been used on a motion to suspend the rules, and the House then adjourns, debate is resumed where it left off when the motion comes up as unfinished business.(8)

§ 10.12 A motion to suspend the rules on which a second had been ordered, remaining undisposed of at adjournment as the unfinished business, was, on the next day when such motion was again in order, withdrawn by unanimous consent.

On May 5, 1958,(9) which was a day when motions to suspend the rules were in order, Mr. Oren Harris, of Arkansas, asked unanimous consent to vacate the proceedings under suspension of the rules held two weeks prior on H.R. 11414, to amend the Public Health Service Act (on the prior occasion, a second had been ordered on the bill but the House had adjourned before completing its consideration). The unanimous-consent request was agreed to, and Mr. Harris moved to suspend the rules and pass the same bill with amendments.

§ 10.13 Pursuant to a special order postponing roll calls until the

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6. 79 CONG. REC. 12506, 74th Cong. 1st Sess.
7. 74 CONG. REC. 6577, 71st Cong. 3d Sess.
8. See § 13.2, infra.
9. 104 CONG. REC. 8004, 85th Cong. 2d Sess.

following Thursday, consideration of the vote on a bill called up under suspension of the rules was postponed and made the unfinished business on the day when roll calls would again be in order.

On Oct. 5, 1965,(10) Mr. Clement J. Zablocki, of Wisconsin, moved to suspend the rules and pass a bill; when Speaker John W. McCormack, of Massachusetts, put the question on the motion, Mr. H. R. Gross, of Iowa, objected to the vote on the ground that a quorum was not present. The Speaker then stated as follows:

> THE SPEAKER: Pursuant to the order of the House of October 1, further proceedings on the Senate joint resolution will go over until Thursday, October 7.

The postponement of the vote on the motion to suspend the rules was carried as follows in the House Journal:

> On a division, demanded by Mr. Gross, there appeared—yeas 55, nays 12.
>
> Mr. Gross objected to the vote on the ground that a quorum was not present and not voting and made the point of order that a quorum was not present.
>
> ORDER OF BUSINESS—FURTHER CONSIDERATION OF THE MOTION TO SUSPEND THE RULES AND PASS THE JOINT RESOLUTION OF THE SENATE S.J. RES. 106
>
> Pursuant to the unanimous-consent agreement of October 1, 1965, further consideration of the motion to suspend the rules and pass the joint resolution of the Senate, S.J. Res. 106 was postponed until Thursday, October 7, 1965.
>
> Mr. Gross then withdrew his point of no quorum.(11)

Parliamentarian's Note: On Oct. 1, the House had agreed to a unanimous-consent request that all roll call votes, other than on matters of procedure, which might arise on Oct. 5 or 6, be put over until Oct. 7.(12)

§ 10.14 The House, under a motion to suspend the rules, passed a resolution extending the time for debate on a motion to suspend the rules, and making said motion the unfinished business until disposed of.

On Sept. 20, 1943,(13) a resolution providing for the consideration of a motion to suspend the rules was

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10. 111 CONG. REC. 25944, 89th Cong. 1st Sess.

11. H. Jour. 1256, 1257, 89th Cong. 1st Sess., Oct. 5, 1965.

12. 111 CONG. REC. 25796, 25797, 89th Cong. 1st Sess.

13. 89 CONG. REC. 7646–55, 78th Cong. 1st Sess.

itself brought up and passed under suspension of the rules:

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I move to suspend the rules and pass the resolution (H. Res. 302), which I send to the Clerk's desk.

The Clerk read as follows:

> *Resolved,* That the time for debate on a motion to suspend the rules and pass House Concurrent Resolution 25 shall be extended to 4 hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and said motion to suspend the rules shall be the continuing order of business of the House until finally disposed of.

Varying Suspension Days by Special Order

§ 10.15 Form of unanimous-consent request that the Speaker may recognize Members to move to suspend the rules at any time until an adjournment to a day certain.

On July 2, 1943,[14] a unanimous-consent request was made, as follows:

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I ask unanimous consent that the Speaker be authorized to recognize Members to move to suspend the rules at any time between now and the time that the House takes its recess.

The Speaker:[15] Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

§ 10.16 Form of resolution providing that at any time on a certain day it shall be in order for the Speaker to entertain motions to suspend the rules notwithstanding Rule XXVII clause 1.

On May 25, 1946,[16] the following resolution reported from the Committee on Rules was called up for consideration and adopted by the House:

> *Resolved,* That at any time on Saturday, May 25, 1946, or Monday, May 27, 1946, it shall be in order for the Speaker to entertain motions to suspend the rules notwithstanding the provisions of clause 1, rule XXVII.[17]

§ 11. Recognition to Offer

The Speaker is authorized but not required to recognize for motions to suspend the rules on eligible days, and recognition for such motions is entirely within the discretion of the

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[14] 89 Cong. Rec. 7038, 78th Cong. 1st Sess.

[15] Sam Rayburn (Tex.).

[16] 92 Cong. Rec. 5746, 79th Cong. 2d Sess.

[17] *House Rules and Manual* § 902 (1979).

Speaker.(18) The rejection of a motion to suspend the rules does not preclude the Speaker from exercising his discretion to recognize for a similar motion.(19)

Prior to the 93d Congress, preference was given to "individual" motions on the first Monday and to "committee" motions on the third Monday; the rule was amended in the 93d Congress to eliminate such distinction (and to provide for additional days on which the motion would be in order).(20)

As discussed in § 10, supra, motions to suspend the rules which will be entertained on a given day are generally programed in advance and announced to the membership of the House. Bills and resolutions listed for suspension are cleared with the leadership, and the Speaker may decline recognition for a motion which does not have the approval of the Majority Leader.(1) But the Speaker may recognize for motions to suspend the rules, to pass emergency legislation or for other purposes, which have not been scheduled in advance. For example, on one occasion the Speaker recognized for a motion to suspend the rules and pass emergency legislation immediately after a joint session to hear the President where the President urged the immediate passage of such legislation.(2)

Many motions to suspend the rules and pass bills and resolutions are offered by the chairman of the committee having jurisdiction over the subject matter of the proposition.(3)

Recognition Generally

§ 11.1 The 93d Congress adopted rules with an amendment to Rule XXVII clause 1 to eliminate the distinction between committee motions and motions by individual Members (and to authorize recognition by the Speaker for

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18. See §§ 11.3–11.7, infra. For discussion of the Speaker's power of recognition in relation to any business before the House, see Ch. 29, infra.

    The Speaker has like discretion as to recognition where he has been authorized to recognize for motions to suspend the rules on a day which is not a regular day for suspension motions (see § 11.3, infra).

    For recognition for the demand for a second on the motion, see § 12, infra.

19. See § 11.9, infra.
20. See § 11.1, infra.

1. See § 11.6, infra.
2. See § 9.22, supra.
3. See §§ 11.10–11.13, infra. The chairman of the committee does not require authorization from the committee (see § 11.11, infra).

such motions on the first and third Mondays of each month and on the Tuesdays immediately following those Mondays).

On Jan. 3, 1973,(4) the House adopted House Resolution 6, adopting the rules of the 92d Congress, with certain amendments, as the rules of the 93d Congress. One of the amendments changed Rule XXVII clause 1:

> In Rule XXVII, clause 1 is amended to read as follows:
> "No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month, and on the Tuesdays immediately following those days, and during the last six days of a session."

Parliamentarian's Note: Prior to its amendment in the 93d Congress, Rule XXVII clause 1 read as follows:

> No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month, preference being given on the first Monday to individuals and on the third Monday to committees, and during the last six days of a session.

§ 11.2 Three quorum calls and two record votes on dispensing with further proceedings under quorum calls interrupted the reading of the Journal and delayed the Speaker's recognition of a Member to move to suspend the rules and pass a Senate joint resolution proposing a constitutional amendment to abolish use of a poll tax as a qualification for voting in elections of federal officials.

Aug. 27, 1962, was a day on which motions to suspend the rules were in order, and Speaker John W. McCormack, of Massachusetts, intended to recognize Mr. Emanuel Celler, of New York, to move to suspend the rules and pass Senate Joint Resolution 29, proposing an amendment to the Constitution of the United States to abolish the use of a poll tax as a qualification for voting in elections of federal officials.

After the offering of the prayer, a demand was made that the Journal be read in full. The reading was interrupted by three quorum calls and two recorded votes on dispensing with further proceedings under such calls, before the suspension motion was brought up. The House adopted the motion.(5)

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4. 119 Cong. Rec. 17–27, 93d Cong. 1st Sess.

5. 108 Cong. Rec. 17651–55, 87th Cong. 2d Sess.

Parliamentarian's Note: Rule I was amended in the 92d Congress to provide that the Journal be read only by motion instead of by demand of any Member.

§ 11.3 Where a Member sought recognition to call up District of Columbia business on the fourth Monday (privileged under Rule XXIV clause 8) and another Member sought recognition to move to suspend the rules and agree to a joint resolution amending the Constitution (privileged pursuant to a unanimous-consent agreement making it in order on the fourth Monday for the Speaker to recognize Members to move suspension and passage of bills), the Speaker recognized for the motion to suspend the rules, the matters being of equal privilege.

On Aug. 27, 1962,(6) which was the fourth Monday of the month and therefore a day eligible for District of Columbia business, under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, recognized Mr. Emanual Celler, of New York, to move to suspend the rules and pass a joint resolution (to amend the Constitution to prohibit the use of a poll tax as a qualification for voting) pursuant to a previous unanimous-consent request making in order on that day motions to suspend the rules. The Speaker overruled a point of order against prior recognition for the motion to suspend the rules:

> MR. CELLER: Mr. Speaker, I move to suspend the rules and pass Senate Joint Resolution 29, proposing an amendment to the Constitution of the United States relating to qualifications of electors.
>
> MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Speaker, a point of order.
>
> THE SPEAKER: The gentleman will state his point of order.
>
> MR. ABERNETHY: Mr. Speaker, I make the point of order that this is District Day, that there are District bills on the calendar, and as a member of the Committee on the District of Columbia I respectfully demand recognition so that these bills may be considered.
>
> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, may I be heard on the point of order?
>
> THE SPEAKER: The Chair is prepared to rule, but the gentleman may be heard.
>
> MR. ALBERT: Mr. Speaker, by unanimous consent, suspensions were transferred to this day, and under the rules the Speaker has power of recognition at his own discretion.
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> MR. ABERNETHY: Mr. Speaker, I respectfully call the attention of the chairman to clause 8, rule XXIV, page 432 of the House Manual. . . .

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6. 108 CONG. REC. 17654–70, 87th Cong. 2d Sess.

Mr. Speaker, I submit that rule is clear that when the time is claimed and the opportunity is claimed the Chair shall permit those bills to be considered.

Therefore, Mr. Speaker, I respectfully submit my point of order is well taken, and that I should be permitted to call up bills which are now pending on the calendar from the Committee on the District of Columbia.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I should like to be heard on the point of order.

THE SPEAKER: The Chair will hear the gentleman. . . .

THE SPEAKER: The Chair is prepared to rule.

Several days ago on August 14 unanimous consent was obtained to transfer the consideration of business under suspension of the rules on Monday last until today. That does not prohibit the consideration of a privileged motion and a motion to suspend the rules today is a privileged motion. The matter is within the discretion of the Chair as to the matter of recognition.

Speaker's Power of Recognition

§ 11.4 Recognition for motions to suspend the rules is within the discretion of the Chair.

On Feb. 17, 1936,(7) Speaker Joseph W. Byrns, of Tennessee, recognized for a motion to suspend the rules and indicated such recognition was within his discretion:

MR. [SAM D.] MCREYNOLDS [of Tennessee]: Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 491) extending and amending the joint resolution (Public Res. No. 67, 74th Cong.), approved August 31, 1935.

The Clerk read the joint resolution, as follows: . . .

THE SPEAKER: Is a second demanded?

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I demand a second.

MR. [MAURY] MAVERICK [of Texas]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MAVERICK: Mr. Speaker, I am informed that no specific authority to request a suspension of the rules has been given by the committee. May I ask the chairman if specific authority has been granted by his committee on this particular bill? In other words, has specific authority been given the gentleman by the committee to ask for a suspension of the rules?

MR. MCREYNOLDS: Yes; twice.

MR. MAVERICK: On this particular bill?

MR. MCREYNOLDS: Yes.

THE SPEAKER: The Chair may say to the gentleman that it is within the discretion of the Chair to recognize the gentleman's move to suspend the rules.

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(7) 80 CONG. REC. 2239, 2240, 74th Cong. 2d Sess.

§ 11.5 Recognition for motions to suspend the rules is entirely within the discretion of the Speaker.

On June 16, 1952,(8) Speaker Sam Rayburn, of Texas, recognized a Member to move to suspend the rules and pass a bill with an amendment. In overruling a point of order against the motion, the Speaker discussed his power of recognition:

> THE SPEAKER: The Chair is ready to rule again.
>
> Suspension of the rules is a matter that can come up only twice a month, either on the first and third Mondays, or the last 6 days of the session if an adjournment date has been fixed. There can be no amendment offered to the motion to suspend the rules and pass a bill, but it is entirely in order for the Speaker to recognize a Member to move to suspend the rules and pass a bill with amendments and recognition for that is entirely within the discretion of the Chair. The Chair can recognize a Member to move to suspend the rules on the proper day and pass a bill with an amendment that has been authorized by a committee, or if the Chair so desires he can recognize a Member to move to suspend the rules and pass a bill with his own amendment.
>
> The Chair overrules the point of order made by the gentleman from Nebraska.
>
> MR. [CARL T.] CURTIS of Nebraska: Mr. Speaker, a further parliamentary inquiry. Would it be possible to offer a substitute motion to suspend the rules in reference to the motion now before the Chair?
>
> THE SPEAKER: Well, the Chair would not recognize the gentleman for that purpose.
>
> MR. CURTIS of Nebraska: Perhaps I could induce another Member to offer the amendment.
>
> THE SPEAKER: The Chair would not recognize any other Member to make that motion.

On Mar. 16, 1964,(9) Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry on recognition for motions to suspend the rules (in relation to a Senate bill not on the suspension list):

> MR. [CHET] HOLIFIELD [of California]: Mr. Speaker, the bill H.R. 9711, to amend the Atomic Energy Act of 1954, is on the suspension calendar for today. However, a similar bill, S. 2448, has been passed by the other body. Therefore, in lieu of calling up H.R. 9711, I move to suspend the rules and pass the bill S. 2448
>
> The Clerk read as follows:
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the second sentence of section 202 of the Atomic Energy Act of 1954 is hereby amended to read as follows: "During the first

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(8) 98 CONG. REC. 7287, 7288, 82d Cong. 2d Sess.

(9) 110 CONG. REC. 5291, 88th Cong. 2d Sess.

> ninety days of each session of the Congress, the Joint Committee may conduct hearings in either open or executive session for the purpose of receiving information concerning the development, growth, and state of the atomic energy industry."

The Speaker: Is a second demanded?

Mr. [John P.] Saylor [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state the parliamentary inquiry.

Mr. Saylor: Mr. Speaker, the House Calendar lists a bill to come up under suspension and it is a House bill. Does it not require unanimous consent to suspend the rules and take up a Senate bill?

The Speaker: The Chair will advise the gentleman from Pennsylvania, under the rules of the House, the Speaker may recognize a Member on a motion to suspend the rules.

Is a second demanded?

Mr. [Craig] Hosmer [of California]: Mr. Speaker, I demand a second.

The Speaker: Without objection, a second will be considered as ordered.

There was no objection.

§ 11.6 On "suspension days," the motion to suspend the rules is admitted at the discretion of the Speaker, and he may decline to entertain such motions unless they have the approval of the Majority Leader.

On Aug. 2, 1948,[10] Speaker Joseph W. Martin, Jr., of Massachusetts, declined to recognize for a motion to suspend the rules and discussed his power of recognition in relation to such motions:

Mrs. [Helen Gahagan] Douglas [of California]: Mr. Speaker, I move to suspend the rules and discharge the Committee on Banking and Currency from further consideration of S. 866.

The Speaker: The Chair does not recognize the gentlewoman for that purpose. The majority leader has already stated that there will be no suspensions today; and, under the practice of the House, suspensions must be cleared through the majority leader. The gentlewoman is not recognized for that purpose.

Mrs. Douglas: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentlewoman will state it.

Mrs. Douglas: Under paragraph 1 of rule XXVII it is in order, is it not, for the Speaker to entertain a motion to suspend the rules?

The Speaker: Yes, it is within the discretion of the Speaker, and the Speaker states that he will not recognize any Member for that purpose without clearing it through the majority leader, and using that discretion merely refuses to recognize the gentlewoman from California.

Mrs. Douglas: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentlewoman will state it.

Mrs. Douglas: Today is the first Monday in August, and under the aforementioned rule individual Members may move to suspend the rules and pass important legislation. Do I understand clearly then that the Chair is exercising his discretion in denying the House to vote on the so-called Taft-Ellender-Wagner bill, even under the procedure requiring a two-thirds vote of the Members present?

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[10] 94 Cong. Rec. 9639, 80th Cong. 2d Sess.

The Speaker: The Chair will state that the rule has existed for more than 50 years, and in accordance with the procedure which has been followed by not only the present Speaker but every other Speaker, the Chair does not recognize the gentlewoman from California for that purpose.

Mrs. Douglas: Mr. Speaker, I ask unanimous consent for the present consideration of S. 866.

The Speaker: The Chair does not recognize the gentlewoman for that purpose.

§ 11.7 The Speaker stated, in recognizing a Member for a unanimous-consent request to consider a bill, that if any amendments were offered he would ask the Member to withdraw the request and to move to suspend the rules and pass the bill because of the vital importance that the bill pass immediately and without amendment.

On July 5, 1943,[11] Speaker Sam Rayburn, of Texas, recognized a Member for a unanimous-consent request:

The Speaker: The Chair recognizes the gentleman from Michigan [Mr. Dingell].

Mr. [John D.] Dingell: Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 35) to authorize the use for war purposes of silver held or owned by the United States.

The Clerk read the title of the bill.

The House discussed the bill under the reservation of the right to object, and the Speaker then answered a parliamentary inquiry as follows:

Mr. [Frederick C.] Smith of Ohio: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Smith of Ohio: It is my understanding this bill will be read and will be subject to amendment, providing there is no objection to its consideration under the unanimous-consent request.

The Speaker: The gentleman is correct, it would be subject to amendment, but the Chair is going to be very frank with the gentleman. If there are going to be amendments offered to this bill the Chair will request the gentleman from Michigan to withdraw his request, and then the Chair will recognize the gentleman from Michigan to move to suspend the rules and pass the bill. The Chair thinks it vitally important that this bill pass immediately, and he thinks it should be passed without amendment. The Chair will accept the responsibility if it is put up to the Chair.

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[11] 89 Cong. Rec. 7213, 7214, 78th Cong. 1st Sess.

§ 11.8 The Majority Leader was recognized to offer a motion to suspend the rules and agree to a resolution authorizing the Speaker to declare recesses for the remainder of the session.

On Dec. 21, 1970,(12) the Majority Leader was recognized for a motion to suspend the rules (a unanimous-consent request having been objected to):

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that it shall be in order during the remainder of this session for the Speaker to declare a recess at any time subject to the call of the Chair.

THE SPEAKER:(13) Is there objection to the request of the gentleman from Oklahoma?

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I object.

THE SPEAKER: Objection is heard.

MR. ALBERT: Mr. Speaker, I offer a resolution and move to suspend the rules and adopt the resolution (H. Res. 1317), making it in order for the Speaker to declare a recess at any time, subject to the call of the Chair.

The Clerk read as follows:

H. RES. 1317

Resolved, That during the remainder of this session it shall be in order for the Speaker to declare a recess at any time, subject to the call of the Chair.

THE SPEAKER: Is a second demanded?

MR. GROSS: Mr. Speaker, I demand a second, and I make a point of order that a quorum is not present.

THE SPEAKER: Without objection, a second will be considered as ordered.

MR. ALBERT: Mr. Speaker, I withdraw the resolution until a later time in the day.

THE SPEAKER: The gentleman from Oklahoma withdraws his resolution at the present time.

MR. GROSS: Mr. Speaker, I withdraw the point of order.

Parliamentarian's Note: Once a second has been ordered (or considered as ordered by unanimous consent) on a motion to suspend the rules, unanimous consent is required to withdraw the motion.

Reoffering Motion

§ 11.9 Rejection of a motion to suspend the rules and agree to a resolution does not preclude the Speaker from exercising his discretionary authority to recognize a Member to offer a similar resolution under suspension of the rules.

On Dec. 21, 1973,(14) Speaker Carl Albert, of Oklahoma, overruled a point of order against recognition for a motion to suspend the rules:

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12. 116 CONG. REC. 43069, 91st Cong. 2d Sess.
13. John W. McCormack (Mass.).
14. 119 CONG. REC. 43271, 93d Cong. 1st Sess.

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I move to suspend the rules and agree to the House Resolution (H. Res. 760) to take from the Speaker's table the Senate bill S. 921, to amend the Wild and Scenic Rivers Act, with a Senate amendment to the House amendment thereto, and agree to the Senate amendment to the House amendment with an amendment.

The Clerk read as follows:

H. Res. 760

Resolved, That immediately upon the adoption of this resolution the bill S. 921, with the Senate amendment to the House amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the House amendment be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the text of the bill H.R. 12129.

The House rejected the motion.

Parliamentarian's Note: The House had earlier rejected a motion to suspend the rules (offered by Mr. Staggers) and agree to a resolution to take the same bill with the Senate amendment from the table and agree to the Senate amendments with an amendment. The second motion offered by Mr. Staggers proposed a different amendment (text of another House bill) to the Senate amendment.

Recognition of Committee Chairman

§ 11.10 The Speaker may recognize the chairman of a committee to move to suspend the rules and agree to a resolution submitted from the floor, providing for the disposal of business on the Speaker's table.

On Sept. 17, 1962,(15) Speaker pro tempore Carl Albert, of Oklahoma, recognized the Chairman of the Committee on Ways and Means for a motion to suspend the rules and pass a resolution submitted from the floor (not introduced and referred to committee):

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I move to suspend the rules and agree to the House Resolution 800.

The Clerk read the resolution, as follows:

Resolved, That immediately upon the adoption of this resolution the bill H.R. 7431, with the Senate amendments thereto, be, and the same hereby is, taken from the Speaker's table, to the end that the Senate amendments be, and the same are hereby agreed to. . . .

THE SPEAKER PRO TEMPORE: Without objection, a second will be considered as ordered.

There was no objection.

On Aug. 27, 1962,(16) the Chair-

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15. 108 CONG. REC. 19610, 87th Cong. 2d Sess.
16. 108 CONG REC. 17671, 87th Cong. 2d Sess.

man of the Committee on Interstate and Foreign Commerce was recognized for a motion to suspend the rules and pass a resolution submitted from the floor:

Mr. [Oren] Harris [of Arkansas]: Mr. Speaker, I move to suspend the rules and agree to House Resolution 769.

The Clerk read the resolution as follows:

> *Resolved,* That immediately upon the adoption of this resolution the bill H.R. 11040, with the Senate amendment thereto, be, and the same is hereby, taken from the Speaker's table, to the end that the Senate amendment be, and the same is hereby, agreed to.

A similar resolution was brought up under suspension of the rules by the Chairman of the Committee on Banking and Currency on Oct. 14, 1972:(17)

Mr. [Wright] Patman [of Texas]: Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1165) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act.

The Clerk read as follows:

> H. Res. 1165
>
> *Resolved,* That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 1301) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act, together with the Senate amendment thereto, be and the same is hereby, taken from the Speaker's table to the end that the Senate amendment be, and the same is hereby, agreed to.

Parliamentarian's Note: Disposal of Senate amendments to a House bill on the Speaker's table before the stage of disagreement must be accomplished by unanimous consent, by suspension of the rules, or by a resolution from the Committee on Rules if the Senate amendments require consideration in Committee of the Whole; but if authorized by the committee with jurisdiction, a motion under Rule XX clause 1 may be made to send the bill to conference if entertained by the Speaker in his discretion.

Thus a motion to suspend the rules may be used to adopt a resolution drafted to accomplish the disposal of such Senate amendments. The resolution is submitted directly from the floor, and is numbered when presented under a motion to suspend the rules, since prior introduction would require its reference to the Committee on Rules.

§ 11.11 The chairman of a committee is not required to have authorization of his committee

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17. 118 Cong. Rec. 36408, 92d Cong. 2d Sess.

to move to suspend the rules and pass a bill in the House.

On Aug. 5, 1948,(18) Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Charles A. Eaton, Chairman of the Committee on Foreign Affairs, to move to suspend the rules and pass a bill within the committee's jurisdiction. The Speaker overruled a point of order against recognition for the motion:

Mr. [Frederick C.] Smith of Ohio: Mr. Speaker, I make a point of order against the motion.

The Speaker: The gentleman will state his point of order.

Mr. Smith of Ohio: Mr. Speaker, I am informed by members of the Committee on Foreign Affairs of the House that this motion has not been formally and specifically authorized by the committee.

The Speaker: The Chair may say, in order to clairfy the situation, that it is possible for the chairman of a committee to offer the motion on his own responsibility and if he does the Chair will recognize him.

§ 11.12 The Speaker recognized the Chairman of the Committee on Interstate and Foreign Commerce to offer a resolution, under suspension of the rules, which provided for taking a Senate bill with a nongermane Senate amendment to a House amendment from the Speaker's table and concurring in the Senate amendment with a further amendment (the text of an introduced bill).

On Dec. 21, 1973,(19) the Chairman of the Committee on Interstate and Foreign Commerce offered a motion to suspend the rules:

Mr. [Harley O.] Staggers [of West Virginia]: Mr. Speaker, I move to suspend the rules and agree to the House resolution (H. Res. 759) to take from the Speaker's table the Senate bill S. 921, to amend the Wild and Scenic Rivers Act, with a Senate amendment to the House amendment thereto, and agree to the Senate amendment to the House amendment with an amendment.

The Clerk read as follows:

H. Res. 759

Resolved, That immediately upon the adoption of this resolution the bill S. 921, with the Senate amendment to the House amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the House amendment be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the text of the bill H.R. 12128.

Mr. Craig Hosmer, of California, demanded a second on the motion, and the House ordered a second

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18. 94 Cong. Rec. 9890, 9891, 80th Cong. 2d Sess.

19. 119 Cong. Rec. 43251, 93d Cong. 1st Sess.

(on an automatic roll call vote when a quorum failed to vote by tellers on ordering a second). The motion to suspend the rules was, however, defeated.

Parliamentarian's Note: The bill which was the subject of the motion, S. 921, was a bill to amend the Wild and Scenic Rivers Act. In the Senate, action had been postponed on a conference report on the Energy Emergency Act (S. 2589), and the Senate had attached a nongermane amendment (consisting of a compromise version of that conference report) to the House amendment to S. 921. It was determined in the House therefore to seek to move to suspend the rules to amend that nongermane Senate amendment with the text of another version of the Energy Act (H.R. 12128). If the motion had been adopted, S. 921, with the House amendment to the Senate amendment to the House amendment, would have been returned to the Senate for an up-or-down vote, any further Senate amendment being in the third degree and not in order.

§ 11.13 The Speaker was authorized, by unanimous consent, to recognize the chairman of one of the standing committees to move to suspend the rules and pass a particular bill on a day other than a suspension day.

On Dec. 12, 1967,[20] the House agreed to a unanimous-consent request relating to recognition for a motion to suspend the rules:

> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that it may be in order on Friday next for the Speaker to recognize the gentleman from Texas [Mr. Teague], to call the veterans bill (H.R. 12555) under suspension of the rules.
>
> THE SPEAKER:[1] Is there objection to the request of the gentleman from Oklahoma?
>
> There was no objection.

§ 12. Seconding the Motion; Recognition to Demand Second

Rule XXVII clause 2[2] formerly required a second, if demanded, on all motions to suspend the rules:

> All motions to suspend the rules shall, before being submitted to the House, be seconded by a majority by tellers, if demanded.

Clause 2 was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979) to delete the requirement for a second where printed copies of the measure as proposed to be passed have been available for at least one legislative day.

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[20] 113 CONG. REC. 35946, 90th Cong. 1st Sess.

[1] John W. McCormack (Mass.).

[2] *House Rules and Manual* § 906 (1973).

The majority vote required on a second is a majority of those present and voting, and, if a second is ordered, the motion itself still requires, for adoption, a two-thirds vote of those present and voting.(3) If a second is demanded and is not considered as ordered by unanimous consent, the failure of a majority to order the second precludes the consideration of the motion to suspend the rules.(4) But if a second is not even demanded, the Chair may put the question immediately on the adoption of the motion, since the absence of the demand for a second indicates that no Member wishes to oppose or debate the motion.(5)

The rule specifies that the vote on a second is taken by tellers and not by recorded vote; however, if objection is made to the teller vote on the grounds that a quorum is not present, and the point of order is made that a quorum is not present, an automatic roll call may occur pursuant to Rule XV clause 4.(6)

The demand for a second is utilized to indicate opposition to the motion; the Member who is recognized to demand a second is entitled to control debate in opposition to the motion, amounting to 20 minutes under Rule XXVII clause 3.(7) Usually, a second is then considered as ordered without the necessity of a vote on ordering a second; where the unanimous-consent request that a second be ordered is objected to, the Chair appoints tellers on the question of a second.(8)

In order to qualify for recognition to demand a second, a Member must indicate his opposition to the

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3. See §§ 12.1, 12.3, infra.
4. See § 12.2, infra.
5. See § 12.6, infra.
6. *House Rules and Manual* § 773 (1979). See § 12.4, infra.
7. *House Rules and Manual* § 907 (1979). See §§ 12.7, 12.8, infra. For further discussion of debate on motions to suspend the rules, see § 13, infra.

   Only one Member may be recognized to demand a second, and another request to demand a second comes too late after a second has been ordered (see § 12.9, infra).
8. See § 12.5, infra. The Member who objects to the request that a second be considered as ordered is not entitled to control the debate in opposition to the motion (unless the same Member was recognized to demand the second). See § 12.7, infra.

proposition being brought up under suspension; in current practice, no distinction is made between degrees of opposition, it being sufficient that the Member seeking recognition state that he is opposed to the motion.(9)

In recognizing a qualified Member to demand a second, the Speaker grants priority of recognition to a member of the minority. If two minority members seek recognition, the Speaker may recognize the most senior member, and if a majority member opposed to the motion seeks recognition he will be recognized over a minority member who is not opposed to the bill.(10) Other factors governing recognition being equal, priority of recognition will be given to a member of the committee with jurisdiction over the subject matter.(11)

Once a second is ordered on a motion to suspend the rules, it is not in order (except by unanimous consent) to have the proposition sought to be passed read to the House.(12)

Requirement for a Second

§ 12.1 Rule XXVII clause 2 provides that all motions to suspend the rules shall be seconded by a majority (of those present and voting) by tellers, if demanded by any Member, before being submitted to the House.

On June 29, 1972,(13) Mr. Carl D. Perkins, of Kentucky, moved to suspend the rules and pass H.R. 14896, to amend the National School Lunch Act. A second was demanded and ordered (pursuant to Rule XXVII clause 2):

> THE SPEAKER:(14) Is a second demanded?
>
> MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Speaker, I demand a second.
>
> THE SPEAKER: Without objection, a second will be considered as ordered.
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I object.
>
> MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, I demand a second.
>
> THE SPEAKER: Is the gentleman opposed to the bill?
>
> MR. STEIGER of Wisconsin: No, Mr. Speaker.

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9. See §§ 12.10–12.13, infra. If no Member qualifies as being opposed to the motion, the Speaker may recognize a Member in favor of the motion to demand the second (see § 12.20, infra).
10. See §§ 12.14–12.20, infra.
11. See § 12.17, infra. But see § 12.16 (an opposed minority member has priority of recognition to demand a second over a majority member of the reporting committee).
12. See § 12.21, infra.
13. 118 CONG. REC. 23415, 92d Cong. 2d Sess.
14. Carl Albert (Okla.).

THE SPEAKER: Is the gentleman from Iowa opposed to the bill?

MR. GROSS: Mr. Speaker, I simply objected to the unanimous consent for a second; that is all.

THE SPEAKER: If the gentleman insists, the vote on ordering a second will be taken by tellers.

MR. GROSS: That is exactly right, Mr. Speaker.

THE SPEAKER: The gentleman from Iowa objects to ordering a second; and the Chair appoints the gentleman from Kentucky (Mr. Perkins) and the gentleman from Iowa (Mr. Gross) as tellers.

The question was taken; and the tellers reported that there were—ayes 120, noes 10.

So a second was ordered.

THE SPEAKER: The Chair recognizes the gentleman from Kentucky for 20 minutes and the gentleman from Minnesota for 20 minutes each.

§ 12.2 Under Rule XXVII clause 2, the failure of a majority to order a second by tellers precludes consideration of the motion to suspend the rules.

On Dec. 21, 1973,[15] Speaker Carl Albert, of Oklahoma, answered an inquiry on the effect of failure to order a second on a motion to suspend the rules:

MR. [CRAIG] HOSMER [of California]: Mr. Speaker, under [rule XXVII, clause 2], I demand a second by a majority by tellers.

THE SPEAKER: The gentleman from California, (Mr. Hosmer) demands a second, and the Chair appoints as tellers the gentleman from West Virginia (Mr. Staggers) and the gentleman from California (Mr. Hosmer).

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Speaker, my parliamentary inquiry is this: If this second fails, then this resolution cannot be considered; is that correct?

THE SPEAKER: The Chair will state that the gentleman is correct.

Will the gentleman from West Virginia and the gentleman from California please take their places as tellers.

Voting on Second

§ 12.3 Motions to suspend the rules must be seconded by a majority by tellers, if demanded, although the motion itself requires a two-thirds vote for passage.

On June 5, 1939,[16] where a second was demanded on a motion to suspend the rules, the second was ordered by a majority vote but the motion failed to pass by a two-thirds vote:

MR. [KENT E.] KELLER [of Illinois]: Mr. Speaker, I move to suspend the rules and pass the resolution (S.J.

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[15] 119 CONG. REC. 43261, 93d Cong. 1st Sess.

[16] 84 CONG. REC. 6622–28, 76th Cong. 1st Sess.

Res. 118) to provide for the establishment and maintenance of the Franklin D. Roosevelt Library, and for other purposes.

The Clerk read the Senate joint resolution, as follows: . . .

The Speaker:(17) Is a second demanded?

Mr. [Allen T.] Treadway [of Massachusetts]: Mr. Speaker, I demand a second.

Mr. Keller: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The Speaker: Is there objection?

Mr. [Stephen] Bolles [of Wisconsin]: Mr. Speaker, I object.

The Speaker: The Chair appoints as tellers the gentleman from Massachusetts, Mr. Treadway, and the gentleman from Illinois, Mr. Keller, to act as tellers.

The House divided; and the tellers reported there were—ayes 133 and noes 114.

So a second was ordered. . . .

The Speaker: The question is, Shall the rules be suspended and the resolution passed.

The question was taken; and on a division there were ayes 161 and noes 131.

Mr. Keller: Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 229, nays 139, not voting 62, as follows: . . .

§ 12.4 While Rule XXVII clause 2 requires the vote on seconding a motion to suspend the rules to be taken by tellers and precludes the demand for a recorded vote, the failure of a quorum to vote by tellers on ordering a second may precipitate an automatic roll call under Rule XV clause 4.

On Dec. 21, 1973,(18) Speaker Carl Albert, of Oklahoma, answered an inquiry, pending a demand for a second on a motion to suspend the rules, on the procedure for voting on ordering a second:

Mr. [William A.] Steiger of Wisconsin: Mr. Speaker, reserving the right to object, under my reservation would it be possible to inquire whether or not a record vote could be demanded on the demand for a second?

The Speaker: The rule provides for tellers, under the provisions of clause 5, rule I.

Mr. Steiger of Wisconsin: Mr. Speaker, further reserving the right to object, is a recorded teller vote in order under that procedure?

The Speaker: The answer to the gentleman is that under the rules this would not be in order.

Is there objection to the request of the gentleman from Mississippi?

Mr. [John J.] Rhodes [ot Arizona]: Mr. Speaker, I have a parliamentary inquiry.

The Speaker: The gentleman will state it.

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17. William B. Bankhead (Ala.).

18. 119 Cong. Rec. 43261, 43262, 93d Cong. 1st Sess.

Mr. Rhodes: What would be the effect, Mr. Speaker, if the motion of the gentleman from West Virginia were not agreed to?

The Speaker: Then the motion could not be considered.

Is there objection to the request of the gentleman from Mississippi?

Mr. [Robert E.] Bauman [of Maryland]: Mr. Speaker, reserving the right to object further, the Chair has just ruled that no electronic vote can be taken on a demand for a second, but if a quorum fails to vote by tellers, cannot then a yea and nay vote be demanded?

The Speaker: If a quorum fails to vote by tellers, an objection can be made to the result of the vote, and when the objection is made or a point of order is made an automatic rollcall can be had based upon the absence of a quorum.

The vote on ordering a second then proceeded as follows:

The Speaker: . . . On this vote all those in favor of ordering the second will continue to pass through the tellers.

The committee divided, and the tellers reported that there were—ayes 109, noes 20.

Mr. [Craig] Hosmer [of California]: Mr. Speaker, under the provisions of rule XXVII, clause 2, I demand the regular order that the Chamber be closed and that the roll be called.

The Speaker: Does the gentleman object to the vote on the ground that a quorum is not present?

Mr. Hosmer: Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The Speaker: The Chair will count. The Chair will count all Members. (After counting) 182 Members are present, not a quorum. A rollcall is automatic. So many as are in favor of ordering the second will vote "aye"; those opposed, "no."

Members will record their vote by electronic device. . . .

The vote was taken by electronic device, and there were—yeas 148, nays 113, answered "present" 1, not voting 170, as follows: . . .

So a second was ordered.

The result of the vote was announced as above recorded.

Following debate on the motion to suspend the rules, two-thirds failed to vote in the affirmative and the motion was rejected.

Similarly, an automatic roll call under Rule XV clause 4, ensued on ordering a second on a motion to suspend the rules on Feb. 3, 1936, when objection was made to the teller vote thereon on the ground that a quorum was not present (Speaker Joseph W. Byrns, of Tennessee, presiding):(19)

The Speaker: Is a second demanded?

Mr. [John] Taber [of New York]: Mr. Speaker, I demand a second.

Mr. [Thomas F.] Ford of California: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

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19. 80 Cong. Rec. 1404, 74th Cong. 2d Sess.

The Speaker: Is there objection to the request of the gentleman from California?

Mr. Taber: Mr. Speaker, I object.

The Speaker: The question is on ordering a second.

The Chair appointed Mr. Ford of California and Mr. Taber to act as tellers.

The House divided; and the tellers reported there were—ayes 63 and noes 31.

Mr. Taber: Mr. Speaker, I object to the vote on the ground that there is not a quorum present.

The Speaker: The Chair will count. [After counting.] Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 199, nays 106, answered "present" 1, not voting 124, as follows: . . .

§ 12.5 When objection is raised to a unanimous-consent request that a second be considered as ordered on a motion to suspend the rules and pass a bill, the Chair immediately appoints tellers on the question of a second, not on the suspension and passage of the bill.

On Sept. 1, 1959,[20] Speaker pro tempore Hale Boggs, of Louisiana, proceeded as follows where a second was demanded on a motion to suspend the rules:

Mr. [Thomas B.] Curtis of Missouri: Mr. Speaker, I demand a second.

Mr. [Wilbur D.] Mills [of Arkansas]: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The Speaker Pro Tempore: Is there objection to the request of the gentleman from Arkansas?

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I object.

The Speaker Pro Tempore: The Chair appoints the gentleman from Arkansas [Mr. Mills] and the gentleman from Iowa [Mr. Gross] as tellers. . . .

Mr. Mills: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Mills: The question before the House, the Speaker having appointed tellers, is on ordering a second, is it not?

The Speaker Pro Tempore: The gentleman is correct.

The House divided, and the tellers reported that there were—ayes 146, noes 1.

So a second was ordered.

Where Second is Not Demanded

§ 12.6 Where no Member demands a second on a motion to suspend the rules and pass a bill, the Speaker may immediately put the question on the motion.

On Aug. 1, 1955,[1] the House

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[20] 105 Cong. Rec. 17600, 86th Cong. 1st Sess.

[1] 101 Cong. Rec. 12663, 84th Cong. 1st Sess.

(Speaker Sam Rayburn, of Texas, presiding) proceeded as follows on a motion to suspend the rules:

> Mr. [John A.] Blatnik [of Minnesota]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2552) to authorize the modification of the existing project for the Great Lakes connecting channels above Lake Erie.
>
> The Clerk read as follows:
>
> *Be it enacted, etc.*, That the project for improvement of the Great Lakes connecting channels above Lake Erie is hereby modified to provide controlling depths of not less than 27 feet, the work to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers in accordance with plans approved by the Chief of Engineers, in the report submitted in Senate Document No. 71, 84th Congress 1st session.
>
> Sec. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this act.
>
> The Speaker: Is a second demanded? [After a pause.] The question is on suspending the rules and passing the bill.
>
> The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

Member Demanding Second is Entitled to Debate

§ 12.7 The Member demanding the second and not the Member objecting to a unanimous-consent request that a second be considered as ordered is entitled to recognition for debate against the motion to suspend the rules and pass a bill.

On Sept. 1, 1959,(2) Mr. Thomas B. Curtis, of Missouri, demanded a second on a motion to suspend the rules and Mr. H. R. Gross, of Iowa, objected to the unanimous-consent request that a second be considered as ordered. Speaker pro tempore Hale Boggs, of Louisiana, answered an inquiry on who would be recognized to control time in opposition to the motion to suspend the rules:

> Mr. Curtis of Missouri: Under this procedure does the gentleman from Iowa control the time or does the gentleman from Missouri who demanded the second have control of the time?
>
> The Speaker Pro Tempore: The gentleman from Missouri demanded a second, and the gentleman from Missouri will control the time.

§ 12.8 A demand for a second by a Member opposed to a motion to suspend the rules does not exist where the House has previously adopted a resolution fixing control of debate on such motion.

On Sept. 20, 1943,(3) the House passed (under suspension of the

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2. 105 Cong. Rec. 17600, 86th Cong. 1st Sess.
3. 89 Cong. Rec. 7646–55, 78th Cong. 1st Sess.

rules) a resolution providing for four hours of debate on a motion to suspend the rules, such time to be divided by the proponents and opponents of the motion:

> *Resolved*, That the time for debate on a motion to suspend the rules and pass House Concurrent Resolution 25 shall be extended to 4 hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and said motion to suspend the rules shall be the continuing order of business of the House until finally disposed of.

Speaker Sam Rayburn, of Texas, then indicated, when the motion so provided for was called up, that a demand for a second (to gain recognition to control time in opposition to the motion) was not necessary, the House having fixed by resolution the control of time in opposition:(4)

MR. [SOL] BLOOM [of New York]: Mr. Speaker, I move to suspend the rules and pass House Concurrent Resolution 25 with an amendment, which I send to the Clerk's desk.

THE SPEAKER: The Clerk will report the resolution as amended.

The Clerk read as follows:

> *Resolved by the House of Representatives (the Senate concurring)*, That the Congress hereby expresses itself as favoring the creation of appropriate international machinery with power adequate to establish and to maintain a just and lasting peace, among the nations of the world, and as favoring participation by the United States therein through its constitutional processes.

MR. [CHARLES A.] EATON [of New Jersey]: Mr. Speaker, I demand a second.

MR. BLOOM: Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HOFFMAN: May a second be demanded by one who is not opposed to the resolution?

THE SPEAKER: That was practically cured by the resolution just passed, which provides that the time shall be in control of the gentleman from New York [Mr. Bloom] and the gentleman from New Jersey [Mr. Eaton]. The formality was gone through.

MR. [JOHN M.] ROBSION of Kentucky: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. ROBSION of Kentucky: Mr. Speaker, I raise the point that the time now provided is in the control entirely of four Members.

THE SPEAKER: The House decided by a vote of 252 to 23 that that was to be the program.

MR. ROBSION of Kentucky: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

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4. *Id.* at p. 7655.

Mr. Robsion of Kentucky: Mr. Speaker, I understand that the Speaker ruled that a second is ordered, and then the same persons who control the time controlled the 40 minutes.

The Speaker: The House ordered that by unanimous consent. The gentleman from New Jersey [Mr. Eaton] demanded a second, and a second was ordered by unanimous consent. However, that was a formality, because the time was already controlled by the terms of the resolution under which the House suspended the rules.

Requesting Recognition to Demand Second

§ 12.9 A request for recognition to demand a second on a motion to suspend the rules comes too late after a second has been ordered (or considered as ordered).

On May 15, 1961,(5) a second having been considered ordered, the Speaker ruled that a request for recognition to demand a second (or a point of order against such recognition) came too late:

The Speaker:(6) Is a second demanded?

Mr. [William S.] Mailliard [of California]: Mr. Speaker, I demand a second.

The Speaker: Without objection, a second will be considered as ordered.

There was no objection.

Mr. [Armistead I.] Selden [Jr., of Alabama]: Mr. Speaker, I yield such time as he may require to the gentleman from Florida [Mr. (Dante B.) Fascell].

Mr. Fascell: Mr. Speaker, the resolution which is before us expresses the sense of Congress that the President exercise his authority under acts which are named to expend funds for assistance to certain Cuban refugees, namely students who need this assistance because of the authoritarian restrictions placed on the activities of those citizens by the Cuban Government or because they are refugees in the United States from the present Government of Cuba. . . .

The Speaker Pro Tempore: The Chair recognizes the gentleman from California [Mr. Mailliard].

Mr. [Clare E.] Hoffman of Michigan: Mr. Speaker, I demand a second, and I make that demand to keep the record straight. The gentleman did not qualify.

The Speaker Pro Tempore: The gentleman from California demanded a second and it has been already ordered.

Mr. Hoffman of Michigan: The gentleman did not qualify. He did not say he was opposed to the bill.

The Speaker Pro Tempore: The gentleman from California.

Mr. Hoffman of Michigan: Mr. Speaker, a point of order. I demand that the Chair ask if the gentleman is opposed to the bill.

The Speaker Pro Tempore: The gentleman from California is recognized.

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(5) 107 Cong. Rec. 7988–91, 87th Cong. 1st Sess.

(6) Sam Rayburn (Tex.).

MR. HOFFMAN of Michigan: What is the ruling on my demand?

THE SPEAKER PRO TEMPORE: The gentleman's demand is too late.

Speaker John W. McCormack, of Massachusetts, made a similar ruling on May 1, 1967:(7)

THE SPEAKER: Is a second demanded?

MR. [WILLIAM L.] SPRINGER [of Illinois]: Mr. Speaker, I demand a second.

MR. [JOHN E.] MOSS [Jr., of California]: Mr. Speaker, I make the point of order that the gentleman from Illinois [Mr. Springer] is not opposed to the joint resolution.

THE SPEAKER: The Chair will ask the gentleman from Illinois [Mr. Springer], is the gentleman opposed to the joint resolution?

MR. SPRINGER: Mr. Speaker, I am not opposed to the joint resolution.

MR. MOSS: Mr. Speaker, I demand a second.

THE SPEAKER: Is any other member of the committee on the Republican side opposed to the joint resolution?

Without objection, a second will be considered as ordered.

There was no objection.

MR. [THEODORE R.] KUPFERMAN [of New York]: Mr. Speaker, I demand a second. I am opposed to the joint resolution.

THE SPEAKER: The gentleman's demand comes too late.

Member Opposed Is Entitled to Recognition

§ 12.10 On a motion to suspend the rules, a Member opposed to the bill has prior right to recognition to demand a second over a Member who favors the motion.

On Feb. 21, 1949,(8) Speaker Sam Rayburn, of Texas, ruled as follows on recognition to demand a second on a motion to suspend the rules and pass a bill:

THE SPEAKER: Is a second demanded?

MR. [SAMUEL K.] MCCONNELL [Jr., of Pennsylvania]: Mr. Speaker, I demand a second.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, is it not the rule of the House that in order for a Member to demand a second he must qualify by being opposed to the bill?

THE SPEAKER: If there is opposition to the bill, a Member who is opposed to it may claim the right to demand a second.

MR. MARCANTONIO: Mr. Speaker, I am opposed to this bill and I demand a second.

THE SPEAKER: Is the gentleman from Pennsylvania [Mr. McConnell] opposed to the bill?

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(7) 113 CONG. REC. 11282, 90th Cong. 1st Sess.

(8) 95 CONG. REC. 1444, 81st Cong. 1st Sess.

MR. McCONNELL: No; I am not, Mr. Speaker.

THE SPEAKER: Without objection a second will be considered as ordered.

There was no objection.

Speaker Rayburn delivered a similar ruling on May 1, 1950:[9]

THE SPEAKER: Is a second demanded?

MR. [EDWARD H.] REES [of Kansas]: Mr. Speaker, I demand a second.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I make the point of order that the gentleman is not opposed to the bill.

THE SPEAKER: The Chair was just about to interrogate the gentleman about that.

Is the gentleman from Kansas opposed to the bill?

MR. REES: No, I am not, Mr. Speaker.

MR. MARCANTONIO: Mr. Speaker, I demand a second.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. MARCANTONIO: I am, Mr. Speaker.

THE SPEAKER: The gentleman qualifies.

On July 23, 1956, recognition to demand a second was extended as follows by Speaker Rayburn:[10]

Mr. [Daniel A.] Reed of New York rose.

MR. [HAMER H.] BUDGE [of Idaho]: Mr. Speaker, I demand a second.

A parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BUDGE: The committee report says the bill came from the committee by unanimous action. I am opposed to the bill and demand a second.

THE SPEAKER: Is the gentleman from New York opposed to the bill?

MR. REED of New York: I am not opposed to the bill.

THE SPEAKER: The gentleman from New York does not qualify. The gentleman from Idaho qualifies.

Without objection, a second will be considered as ordered.

There was no objection.[11]

§ 12.11 In recognizing a Member to demand a second on a motion to suspend the rules and pass a bill, the Speaker gives preference to a Member who qualifies as being opposed to the bill.

On Dec. 6, 1971,[12] Speaker Carl Albert, of Oklahoma, extended recognition as follows on a demand for a second on a motion to suspend the rules:

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[9] 96 CONG. REC. 6093, 81st Cong. 2d Sess.

[10] 102 CONG. REC. 14113, 84th Cong. 2d Sess.

[11] See also 104 CONG. REC. 4788, 85th Cong. 2d Sess., Mar. 19, 1958; 102 CONG. REC. 14108, 84th Cong. 2d Sess., July 23, 1956; 102 CONG. REC. 1575–77, 84th Cong. 2d Sess., May 21, 1956; and 101 CONG. REC. 12694, 84th Cong. 1st Sess., Aug. 1, 1955.

[12] 117 CONG. REC. 44951, 92d Cong. 1st Sess.

The Speaker: Is a second demanded?

Mr. [Thomas M.] Pelly [of Washington]: Mr. Speaker, I demand a second.

Mr. [David H.] Pryor of Arkansas: Mr. Speaker, is the gentleman from Washington opposed to the bill?

The Speaker: Is the gentleman from Washington opposed to the bill?

Mr. Pelly: Mr. Speaker, I voted to report the bill to the floor of the House.

The Speaker: Is the gentleman from Arkansas opposed to the bill?

Mr. Pryor of Arkansas: Yes, Mr. Speaker, and I demand a second.

The Speaker: The gentleman from Arkansas qualifies.

Without objection a second will be considered as ordered.

There was no objection.

Also on Aug. 27, 1962,(13) Speaker John W. McCormack, of Massachusetts, granted recognition as follows:

The Speaker: Is a second demanded?

Mr. [William L.] Springer [of Illinois]: Mr. Speaker, I demand a second.

Mr. [William Fitts] Ryan of New York: Mr. Speaker, I demand a second.

The Speaker: The gentleman from Illinois has demanded a second.

Mr. Ryan of New York: Mr. Speaker, is the gentleman from Illinois opposed to the bill?

The Speaker: Is the gentleman from Illinois [Mr. Springer] opposed to the bill?

Mr. Springer: Mr. Speaker, I am not opposed to the bill.

The Speaker: Is the gentleman from New York [Mr. Ryan] opposed to the bill?

Mr. Ryan of New York: Mr. Speaker, I am opposed to the bill and I demand a second.

The Speaker: Without objection, a second will be considered as ordered.

There was no objection.

On July 20, 1959,(14) recognition was extended as follows:

The Speaker Pro Tempore:(15) Is a second demanded?

Mr. [Russell V.] Mack of Washington: Mr. Speaker, I demand a second.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Gross: Is the gentleman from Washington opposed to the bill?

The Speaker Pro Tempore: Is the gentleman from Washington opposed to the bill?

Mr. Mack of Washington: I am not, Mr. Speaker.

Mr. Gross: Mr. Speaker, I demand a second.

The Speaker Pro Tempore: The gentleman from Iowa qualifies, and

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13. 108 Cong. Rec. 17671, 87th Cong. 2d Sess.

14. 105 Cong. Rec. 13719, 86th Cong. 1st Sess.

15. Carl Albert (Okla.).

without objection a second will be considered as ordered.

There was no objection.[16]

§ 12.12 In recognizing a Member to demand a second on a motion to suspend the rules, the Speaker does not distinguish between a Member opposed to the bill "in its present form" and a Member unqualifiedly opposed.

On Feb. 7, 1972,[17] Speaker Carl Albert, of Oklahoma, ruled as follows on recognition to demand a second on a motion to suspend the rules:

The Speaker: Is a second demanded?

Mr. [Fred] Schwengel [of Iowa]: Mr. Speaker, I demand a second.

The Speaker: Is the gentleman opposed to the bill?

Mr. Schwengel: In its present form, Mr. Speaker.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I am opposed to the bill without the reservation "in its present form."

The Speaker: If a Member is opposed to the bill at any point, he is opposed to the bill.

Parliamentarian's Note: Under prior practice, the Chair would give priority of recognition, to demand a second on a motion to suspend the rules, to a Member who was unqualifiedly opposed to the bill sought to be passed, rather than to a Member who was opposed qualifiedly (as for example having objections to a portion of the bill or to the method of its consideration).[18]

But under current practice, the Speaker does not inquire into the degree of a Member's opposition to the bill, it being sufficient that he be opposed to the motion to qualify to demand a second.

§ 12.13 In recognizing a Member to demand a second on a motion to suspend the rules the Speaker recognizes a Member opposed to the proposition, and where no Member on the minority side qualifies, the Speaker recognizes any Member of the House who qualifies as being opposed.

On Aug. 5, 1948,[19] Speaker Joseph W. Martin, Jr., of Massachusetts, extended recognition as follows to demand a second on a motion to suspend the rules:

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[16] See also 109 Cong. Rec. 19947, 88th Cong. 1st Sess., Oct. 21, 1963; and 111 Cong. Rec. 20689, 89th Cong. 1st Sess., Aug. 17, 1965.

[17] 118 Cong. Rec. 2881, 2882, 92d Cong. 2d Sess.

[18] See, for example, 80 Cong. Rec. 2239, 2240, 74th Cong. 2d Sess., Feb. 17, 1936 (Member opposed to the way the bill was brought up was not recognized); and 91 Cong. Rec. 5513, 5514, 79th Cong. 1st Sess., June 4, 1945 (Member opposed to certain provisions in a bill not recognized).

[19] 94 Cong. Rec. 9892, 80th Cong. 2d Sess.

The Speaker: Is a second demanded?

Mr. [Sol] Bloom [of New York]: Mr. Speaker, I demand a second.

The Speaker: Is the gentleman opposed to the resolution?

Mr. Bloom: No.

The Speaker: The gentleman does not qualify. Is anyone on the Democratic side opposed to the resolution? [After a pause.] Is anyone opposed to the resolution?

Mr. [Frederick C.] Smith of Ohio: Mr. Speaker, I am opposed to the resolution and I demand a second.

The Speaker: The gentleman qualifies.

Priorities of Recognition

§ 12.14 A minority member opposed to a motion to suspend the rules is recognized to demand a second over a majority member.

On Dec. 21, 1973,(20) Speaker Carl Albert, of Oklahoma, recognized, to demand a second on a motion to suspend the rules, a member of the minority party over a member of the majority:

Mr. [Harley O.] Staggers [of West Virginia]: Mr. Speaker, I move to suspend the rules and agree to House resolution (H. Res. 761) to take from the Speaker's table the Senate bill S. 921, to amend the Wild and Scenic Rivers Act, with a Senate amendment to the House amendment thereto, and agree to the Senate amendment to the House amendment with an amendment.

The Clerk read as follows:

H. Res. 761

Resolved, That immediately upon the adoption of this resolution the bill S. 921, with the Senate amendment to the House amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment be, and the same is hereby, agreed to.

The Speaker: Is a second demanded?

Mr. [John D.] Dingell [of Michigan]: Mr. Speaker, I demand a second, and I demand tellers.

Mr. [Robert E.] Bauman [of Maryland]: Mr. Speaker, I demand a second.

The Speaker: Is the gentleman opposed to the resolution?

Mr. Bauman: I am.

The Speaker: Without objection, a second will be considered as ordered.

There was no objection.

The Speaker: The gentleman from West Virginia (Mr. Staggers) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. Bauman) will be recognized for 20 minutes.

Recognition was similarly granted to the minority over the majority on Aug. 27, 1962:(1)

The Speaker:(2) Is a second demanded?

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20. 119 Cong. Rec. 43285, 93d Cong. 1st Sess.

1. 108 Cong. Rec. 17655, 87th Cong. 2d Sess.

2. John W. McCormack (Mass.).

MR. [WILLIAM M.] MCCULLOCH [of Ohio]: Mr. Speaker, I demand a second.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I would like to know if the gentleman qualifies. I believe that the opposition has the right to demand a second.

THE SPEAKER: Is the gentleman from Ohio [Mr. McCulloch] opposed to the resolution?

MR. MCCULLOCH: Mr. Speaker, I am not opposed to the resolution.

THE SPEAKER: The gentleman does not qualify.

MR. [JOHN H.] RAY [of New York]: Mr. Speaker, I demand a second.

THE SPEAKER: Is the gentleman opposed to the resolution?

MR. RAY: Mr. Speaker, I am.

THE SPEAKER: Without objection, a second will be considered as ordered.

There was no objection.

§ 12.15 In recognizing a Member to demand a second on a motion to suspend the rules and pass a bill, the Speaker gives preference to a minority member.

On Aug. 4, 1958,[3] Speaker pro tempore John W. McCormack, of Massachusetts, ruled as follows on recognition to demand a second on a motion to suspend the rules:

THE SPEAKER PRO TEMPORE: Is a second demanded?

MR. [VICTOR L.] ANFUSO [of New York]: Mr. Speaker, I demand a second. I am opposed to the bill.

MR. [RALPH] HARVEY [of Indiana]: Mr. Speaker, I demand a second.

THE SPEAKER PRO TEMPORE: A second is demanded by the gentleman from Indiana, a member of the minority.

Without objection, a second is considered as ordered.

There was no objection.

§ 12.16 In recognizing a Member to demand a second on a motion to suspend the rules, the Speaker gives priority of recognition to a minority member opposed to the bill over a majority member of the reporting committee.

On Apr. 15, 1946,[4] Speaker Sam Rayburn, of Texas, recognized a member of the minority over a majority member of the reporting committee to demand a second on a motion to suspend the rules:

THE SPEAKER: Is a second demanded?

MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Speaker, I demand a second.

THE SPEAKER: Is the gentleman from Kansas opposed to the bill?

MR. HOPE: No; I am not, Mr. Speaker.

MR. [RALPH E.] CHURCH [of Illinois]: Mr. Speaker, I demand a second.

THE SPEAKER: Is the gentleman opposed to the bill?

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[3] 104 CONG. REC. 16096, 85th Cong. 2d Sess.

[4] 92 CONG. REC. 3722, 79th Cong. 2d Sess.

Mr. Church: I am, Mr. Speaker.

Mr. [Clare E.] Hoffman [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Hoffman: I thought the gentleman on the majority side was entitled to demand a second.

The Speaker: If anyone on the minority claims the right, he is entitled to it.

§ 12.17 A minority member of the committee who is opposed to a bill has prior right to recognition to demand a second on a motion to suspend the rules.

On Dec. 1, 1941,(5) Speaker Sam Rayburn, of Texas, gave priority of recognition, to demand a second on a motion to suspend the rules, to a minority member on the committee reporting the bill:

Mr. [Fritz G.] Lanham [of Texas]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6128) to amend the act entitled "An act to expedite the provision of housing in connection with national defense, and for other purposes," approved October 14, 1940, as amended.

The Clerk read the bill as follows: . . .

Mr. [J. Harry] McGregor [of Ohio]: Mr. Speaker, I demand a second.

Mr. [Pehr G.] Holmes [of Massachusetts]: Mr. Speaker, I demand a second.

The Speaker: Is the gentleman from Massachusetts opposed to the bill?

Mr. Holmes: I am not opposed to the bill.

The Speaker: Is the gentleman from Ohio opposed to the bill?

Mr. McGregor: I am a member of the committee, and I am opposed to the bill, Mr. Speaker.

The Speaker: The gentleman qualifies.

Without objection, a second is considered as ordered.

There was no objection.

§ 12.18 In recognizing a Member to demand a second on a motion to suspend the rules and pass a bill, the Speaker gives preference to a majority member opposed to the bill over a minority member who does not qualify as being opposed.

On Sept. 20, 1965,(6) Speaker John W. McCormack, of Massachusetts, recognized, to demand a second on a motion to suspend the rules, a member of the majority when no minority member who was opposed to the bill sought recognition for that purpose:

The Speaker: Is a second demanded?

Mr. [William S.] Mailliard [of California]: Mr. Speaker, I demand a second.

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5. 87 Cong. Rec. 9276, 9277, 77th Cong. 1st Sess.

6. 111 Cong. Rec. 24347, 24348, 89th Cong. 1st Sess.

The Speaker: Is the gentleman opposed to the resolution?

Mr. Mailliard: I am not opposed to the resolution.

The Speaker: The gentleman does not qualify. Does any other Member on the minority side who is opposed to the resolution demand a second?

Mr. [Wayne L.] Hays [of Ohio]: Mr. Speaker, I demand a second.

The Speaker: Is the gentleman opposed to the resolution?

Mr. Hays: I am.

The Speaker: The gentleman qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

Speaker pro tempore William H. Natcher, of Kentucky, followed the same priority of recognition on Dec. 21, 1970:(7)

The Speaker Pro Tempore: Is a second demanded?

Mr. [John W.] Byrnes of Wisconsin: Mr. Speaker, I demand a second.

Mr. [Jonathan B.] Bingham [of New York]: Mr. Speaker, a parliamentary inquiry. Is the gentleman from Wisconsin opposed to the bill, and does he qualify as a second?

The Speaker Pro Tempore: Is the gentleman from Wisconsin opposed to the bill?

Mr. Byrnes of Wisconsin: Mr. Speaker, I am not.

The Speaker Pro Tempore: Is the gentleman from New York opposed to the bill?

Mr. Bingham: I am, Mr. Speaker, and I demand a second.

The Speaker Pro Tempore: The gentleman from New York qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

On July 27, 1946, Speaker Sam Rayburn, of Texas, recognized, to demand a second on a suspension motion, a member of the majority when no minority member qualified as being opposed to the bill:(8)

The Speaker: Is a second demanded?

Mr. [Sam] Hobbs [of Alabama]: Mr. Speaker, I demand a second.

The Speaker: Does any Member of the minority demand a second?

Mr. [Carl] Hinshaw [of California]: I demand a second, Mr. Speaker.

The Speaker: Is the gentleman opposed to the motion?

Mr. [Joseph W.] Martin [Jr.] of Massachusetts: A parliamentary inquiry, Mr. Speaker.

The Speaker: The gentleman will state it.

Mr. Martin of Massachusetts: On the last suspension that rule was not invoked. Both Members who controlled the time were in favor of the bill.

The Speaker: Since the question has been raised, the Chair thinks the opposition is entitled to the time.

Does the gentleman from Alabama demand a second?

Mr. Hobbs: I do, Mr. Speaker.

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7. 116 Cong. Rec. 43087, 91st Cong. 2d Sess.

8. 92 Cong. Rec. 10310, 79th Cong. 2d Sess.

§ 12.19 Where two minority members rise to demand a second on a motion to suspend the rules and both qualify as being opposed to the bill, the Speaker recognizes the Member with the most seniority in the House if neither is a member of the committee reporting the bill.

On Feb. 7, 1972,(9) Speaker Carl Albert, of Oklahoma, recognized, to demand a second on a motion to suspend the rules, the more senior of two minority members seeking recognition, where neither of the two were on the Committee on the Judiciary, which reported the bill being brought up:

THE SPEAKER: Is a second demanded?

MR. [FRED] SCHWENGEL [of Iowa]: Mr. Speaker, I demand a second.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. SCHWENGEL: In its present form, Mr. Speaker.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I am opposed to the bill without the reservation "in its present form."

THE SPEAKER: If a Member is opposed to the bill at any point, he is opposed to the bill.

MR. GROSS: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GROSS: The bill, as I understand it, is brought up under suspension of the rules and therefore is not subject to amendment. Is that correct?

THE SPEAKER: The gentleman is correct.

MR. GROSS: Then, in its present form, it cannot be amended.

THE SPEAKER: The gentleman to qualify, must be opposed to the bill.

MR. GROSS: Mr. Speaker, I am opposed to it without reservation.

THE SPEAKER: The gentleman from Iowa (Mr. Gross), is recognized.

§ 12.20 In recognizing Members to demand a second on a motion to suspend the rules, the Speaker recognizes a Member in favor of the motion if no one opposed demands recognition.

On July 17, 1950,(10) Speaker Sam Rayburn, of Texas, recognized a Member in favor of a bill to demand a second on a motion to suspend the rules:

THE SPEAKER: Is a second demanded?

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a parliamentary inquiry.

I am not opposed to the bill, but if no one is opposed, I would demand a second.

THE SPEAKER: If no one else is opposed, the gentleman qualifies if he desires.

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9. 118 CONG. REC. 2881, 2882, 92d Cong. 2d Sess.

10. 96 CONG. REC. 10438, 81st Cong. 2d Sess.

Mr. Michener: I demand a second, Mr. Speaker.

Mr. [Emanuel] Celler [of New York]: I ask unanimous consent, Mr. Speaker, that the second be considered as ordered.

Without objection, the second was ordered.

Reading and Rereading Measure Sought to Be Passed

§ 12.21 Where a motion to suspend the rules and agree to a resolution providing for concurring in a Senate amendment with an amendment consisting of the text of a numbered bill introduced in the House was offered, the reading of the resolution was held sufficient and its rereading pending a demand for a second by tellers was in order only by unanimous consent.

On Dec. 21, 1973,(11) Harley O. Staggers, of West Virginia, Chairman of the Committee on Interstate and Foreign Commerce, moved to suspend the rules and agree to a resolution relating to the order of business:

H. Res. 759

Resolved, That immediately upon the adoption of this resolution the bill S. 921, with the Senate amendment to the House amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the House amendment be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the text of the bill H.R. 12128.

Mr. Craig Hosmer, of California, then demanded, pursuant to Rule XXVII clause 2, a second on the motion. Speaker Carl Albert, of Oklahoma, ruled on a point of order as follows:

Mr. [Joe D.] Waggonner [Jr., of Louisiana]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Waggonner: Mr. Speaker, there is not a Member of this Chamber who knows what is being voted on. None of the Speaker's last statements were heard by the Members of the House, and the House is entitled to know what the vote is being cast upon and what the issue is.

Mr. [Jamie L.] Whitten [of Mississippi]: Mr. Speaker, I further state that the motion was not read.

The Speaker: The motion was read. The Chair will state again to the gentleman that a second was demanded, and tellers were demanded.

Those in favor of a second on the motion will pass between the tellers.

Mr. Waggonner: Mr. Speaker, what is the motion?

The Speaker: The motion is to suspend the rules and agree to House Resolution 759.

Mr. Waggonner: Then, Mr. Speaker, what is that resolution?

The Speaker: The resolution has been reported.

Mr. Waggonner: Mr. Speaker, the House does not understand the resolution as reported and I ask unanimous consent that it be reported again.

The Speaker: Is there objection to the request of the gentleman from Louisiana?

Mr. [Robert E.] Bauman [of Maryland]: Mr. Speaker, I object. A vote is in process.

Parliamentarian's Note: House Resolution 759 itself did not contain the text of the introduced bill, H.R.

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11. 119 Cong. Rec. 43251, 43262, 93d Cong. 1st Sess.

12128, and so the text of that bill was not read by the Clerk as part of the resolution, but the text of the bill was printed separately in the Record. Pursuant to § 14.4, infra, the Chair, in his discretion upon demand of a Member, could have required the Clerk to report the entire text of the House bill, since it had only been introduced that day and was not yet printed and available to Members. That demand was not made by any Member.

§ 13. Time and Control of Debate

Rule XXVII clause 3(12) provides that when a motion to suspend the rules has been properly submitted to the House,

> it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition; and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.(13)

The 20 minutes of debate in favor of the motion is controlled by the mover of the motion, and the 20 minutes against is controlled by the Member who has been recognized to demand a second. No Member may speak in debate on the motion unless he is yielded time by one of those Members.(14) And the proponent of the motion is entitled to open and close debate.(15)

The House may by unanimous consent or resolution alter the normal procedures for debate on a motion to suspend the rules; time may be extended by unanimous consent if the request is timely made (before the motion is seconded).(16) On one occasion, the House passed a resolution (under suspension of the rules) fixing the time for debate on a motion to suspend the rules at four hours and designating the Members to control the time.(17)

Time for Debate

§ 13.1 On a motion to suspend the rules and pass a bill with amendments there is 40 minutes of debate, 20 minutes on a side, the five-minute rule does not apply to such amendments, and amendments other than those included in the motion are not in order.

On June 19, 1948,(18) Speaker

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12. *House Rules and Manual* § 907 (1979).
13. For a complete discussion of debate and consideration in the House on all matters, including motions to suspend the rules, see Ch. 29, infra.
14. See § 13.7, infra. The allocation of the time is within the discretion of the Members controlling it (see § 13.10, infra) and alternation of recognition (between Members on both sides of the aisle) is not required (see § 13.9, infra).
15. See §§ 13.13, 13.14, infra.
16. See §§ 13.3–13.5, infra.
17. See § 13.18, infra. In that situation, a demand for a second does not exist (to gain control of the time in opposition to the motion). See § 13.12, infra.
18. 94 Cong. Rec. 9185, 80th Cong. 2d Sess.

Joseph W. Martin, Jr., of Massachusetts, answered a parliamentary inquiry on the consideration of a motion to suspend the rules and pass a bill with amendments:

> MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6712) to provide for revenue revision, to correct tax inequalities, and for other purposes, with committee amendments.
>
> MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. EBERHARTER: I notice the motion stated "permission to offer amendments." Am I correct?
>
> THE SPEAKER: The gentleman misheard the request. The request was to suspend the rules and pass the bill with committee amendments.
>
> MR. EBERHARTER: Does that allow those who oppose the amendments 5 minutes on each amendment?
>
> THE SPEAKER: The rule provides for 20 minutes on each side. That is, the Republican side will have 20 minutes and the gentleman from North Carolina [Mr. Doughton], who will demand a second, will have 20 minutes.
>
> MR. EBERHARTER: Mr. Speaker, the only amendments that may be considered then are those that the committee acted upon?
>
> THE SPEAKER: The gentleman is correct. The Clerk will report the bill.

§ 13.2 If a portion of the time for debate on a motion to suspend the rules is used and the House adjourns before completing debate, the time begins where it left off when the motion comes up as unfinished business.

On Feb. 8, 1931,[19] a second was ordered on a motion to suspend the rules and the House adjourned. Before adjournment, Speaker Nicholas Longworth, of Ohio, stated, in response to a parliamentary inquiry, that the time for debate (20 minutes on a side) would resume where it left off at adjournment.

The debate resumed on the motion on the following day (the House was within the last six days of the session, so the following day was an eligible day for motions to suspend the rules under Rule XXVII clause 1).[20]

Extending Time for Debate

§ 13.3 The House, by unanimous consent, and pursuant to a timely request, may extend the time for debate on a motion to suspend the rules and pass a bill.

On Mar. 3, 1960,[1] the House agreed to a request extending time on a motion to suspend the rules and pass an authorization bill:

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[19] 74 CONG. REC. 6577, 71st Cong. 3d Sess.

[20] *House Rules and Manual* § 902 (1979).

[1] 106 CONG. REC. 4388, 4389, 86th Cong. 2d Sess.

Mr. [John W.] McCormack [of Massachusetts]: The legislative program for next week is as follows:

On Monday there is the Consent Calendar.

There will be one suspension; that is H.R. 10809, the authorization for the appropriation for NASA for 1961. In the committee it was agreed upon that the request would be made to extend the usual time of 40 minutes to 1 hour and 20 minutes. I think I discussed that with my friend from Indiana [Mr. Halleck].

Mr. [Charles A.] Halleck: Yes; that is agreeable to me.

National Aeronautics and Space Administration

Mr. McCormack: Therefore, Mr. Speaker, I ask unanimous consent that when the bill H.R. 10809 comes up under suspension, debate may not exceed 1 hour and 20 minutes.

The Speaker Pro Tempore:(2) Is there objection to the request of the gentleman from Massachusetts? . . .

There was no objection.

§ 13.4 The Speaker stated he would object to a unanimous-consent request for an extension of time for debate on a motion to suspend the rules and pass a bill.

On July 23, 1956,(3) Speaker Sam Rayburn, of Texas, declined recognition for a request to extend time for debate on a pending motion to suspend the rules:

Mr. [William M.] McCulloch [of Ohio]: Mr. Speaker, I should like to renew the request of the gentleman from New York previously made to extend time of debate on this important matter for 20 minutes, 10 minutes on each side. I think it is very important that we have that additional time for debate.

I ask unanimous consent that time be extended to 20 minutes for debate on this bill.

Mr. [Emanuel] Celler [of New York]: Mr. Speaker, I join in that request.

The Speaker: The Chair does not join in that request, because the gentleman from Texas [Mr. Rayburn] is going to object, if nobody else does.

Mr. [Usher L.] Burdick [of North Dakota]: I object, Mr. Speaker.

The Speaker: According to the rules of the House, 20 minutes of debate are permitted on each side.

§ 13.5 After the motion to suspend the rules and pass a bill has been seconded and the Chair has recognized a member of the majority and a member of the minority to control the 20 minutes allotted to each under Rule XXVII clause 3, the Chair has declined to entertain a unanimous-consent request for an additional allotment of time to those opposed to the measure.

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2. Carl Albert (Okla.).
3. 102 Cong. Rec. 14075, 84th Cong. 2d Sess.

On Oct. 21, 1963,[4] Speaker pro tempore Carl Albert, of Oklahoma, refused to entertain a request relating to debate on a motion to suspend the rules, where Members had been recognized to control the 20 minutes of debate on each side:

> MR. [RALPH R.] HARDING [of Idaho]: Mr. Speaker, the rules of the House wisely provide that there shall be 20 minutes allotted to both the pro and con on each piece of legislation under a suspension of the rules of the House.
>
> Mr. Speaker, inasmuch as the gentleman from Texas [Mr. Alger] has only used 2 minutes in opposing this bill, I would like to ask unanimous consent that those people who are opposed to it be allotted an additional 18 minutes in which to state our case.
>
> THE SPEAKER PRO TEMPORE: The Chair cannot entertain that motion under the rules of the House at this time.

Control of Debate

§ 13.6 Debate on a motion to suspend the rules, a second having been ordered, is limited to 40 minutes—20 minutes controlled by the mover and 20 minutes controlled by the Member demanding a second.

On June 30, 1959,[5] Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry on the time and distribution of debate on a motion to suspend the rules:

> THE SPEAKER: The Chair recognizes the gentleman from Missouri.
>
> MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. CANNON: Mr. Speaker, I am advised that the gentleman from New York [Mr. Taber] will demand a second on the motion to suspend the rules on the Temporary Appropriations Act of 1960. How will the time for debate be distributed under the circumstances?
>
> THE SPEAKER: Twenty minutes on a side.

§ 13.7 A Member may not speak on a motion to suspend the rules and pass a bill unless time is yielded to him by the mover or the Member demanding a second.

On June 15, 1959,[6] Speaker pro tempore Clark W. Thompson, of Texas, answered an inquiry on obtaining time for debate on a motion to suspend the rules:

> MR. [BYRON G.] ROGERS of Colorado: Mr. Speaker, I move to strike out the enactment clause of H.R. 7650.

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[4] 109 CONG. REC. 19953, 88th Cong. 1st Sess.

[5] 105 CONG. REC. 12306, 86th Cong. 1st Sess.

[6] 105 CONG. REC. 10810, 86th Cong. 1st Sess.

The Speaker Pro Tempore: That privilege is not available when a bill is being considered under suspension of the rules.

Mr. Rogers of Colorado: Mr. Speaker, is there any way that a Member of the House of Representatives can speak on H.R. 7650 before the matter is put to a vote?

The Speaker Pro Tempore: Only if the gentlewoman from Massachusetts chooses to yield time to the gentleman.

On Jan. 20, 1930,(7) the House had under debate a motion to suspend the rules, with Mr. Louis C. Cramton, of Michigan, controlling the time in favor of the motion and Mr. Schuyler Otis Bland, of Virginia, controlling the time in opposition. Mr. Cramton yielded 10 minutes to Mr. William H. Stafford, of Wisconsin, who attempted to reserve the balance of that time when he had not consumed all of it. Mr. Cramton objected that Mr. Stafford did not have control of the time, and Speaker Nicholas Longworth, of Ohio, affirmed that was the case, indicating that where one of the Members in control yielded to another Member, that Member could not yield part of that time to a third Member.

§ 13.8 Where a Member moving to suspend the rules uses a portion of the 20 minutes available to him for debate, and then yields "the balance of his time" to another who does not, in fact, consume all the remaining time, the unused time reverts to the mover who may continue debate.

On Sept. 19, 1966,(8) Mr. Adam C. Powell, of New York, who had moved to suspend the rules and pass a bill, yielded the remainder of his 20 minutes of debate as follows:

Mr. Powell: . . . I yield now the balance of my time to the gentleman from Michigan [Mr. O'Hara].

Mr. O'Hara not having used all the remainder of the 20 minutes, Mr. Powell then yielded the remainder of the time to Mr. John H. Dent, of Pennsylvania. Speaker John W. McCormack, of Massachusetts, overruled a point of order and answered a parliamentary inquiry in relation to such disposition of the time in favor of the motion:

Mr. Powell: Mr. Speaker, I should like to compliment the gentleman from Minnesota, who has worked very hard and cooperatively on this legislation, on his remarks.

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7. 72 Cong. Rec. 1993, 1994, 71st Cong. 2d Sess.

8. 112 Cong. Rec. 22928, 89th Cong. 2d Sess.

Mr. Speaker, I yield such time as he may consume to my distinguished colleague from Pennsylvania [Mr. Dent].

MR. [H. R.] GROSS: [of Iowa]: Mr. Speaker, I make the point of order that the gentleman from New York [Mr. Powell] yielded his remaining time to the gentleman from Michigan [Mr. O'Hara] and that he therefore cannot yield time.

THE SPEAKER: The gentleman from Michigan consumed 3 minutes.

MR. GROSS: Mr. Speaker, the gentleman from New York yielded the remainder of his time to the gentleman from Michigan [Mr. O'Hara].

MR. POWELL: Mr. Speaker, may I be heard?

THE SPEAKER: The Chair will state, when that is done on either side, when a Member does not consume the remainder of the time, control of the remaining time reverts to the Member who has charge of the time.

MR. GROSS: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GROSS: When the Member in charge of time yields the remainder of his time to another Member, Mr. Speaker, I would not know how he would then be able to yield time to any other Member.

THE SPEAKER: The Chair will rule that when the gentleman in control of time yields the remainder of his time to another Member, and the other Member does not use up all the time, then the remainder of the time comes back under the control of the Member who originally had control of the time.

MR. GROSS: Mr. Speaker, a further parliamentary inquiry.

How may a Member yield the remainder of his time and still control that time?

THE SPEAKER: Well, that is not a parliamentary inquiry, but the Chair will assume, just making an observation, that every Member in the House is aware that happens, and has happened frequently.

MR. GROSS: Mr. Speaker, a further parliamentary inquiry. Would that be in violation of the rules of the House?

THE SPEAKER: The Chair sees no violation of the rules under those circumstances, but a protection of the right for full debate.[9]

§ 13.9 Alternation of recognition is not required during the 40 minutes of debate on a motion to suspend the rules.

On Sept. 20, 1961,[10] the House had under debate a motion to suspend the rules where Mr. William R. Poage, of Texas, was controlling the 20 minutes in favor of the motion and Mr. H. R. Gross, of Iowa, the 20 minutes in opposition. Speaker pro tempore John W. McCormack, of Massachusetts, indicated that alternation of recognition was not required:

MR. GROSS: Apparently they do not want to explain the bill.

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[9] *Id.* at pp. 22933, 22934.

[10] 107 CONG. REC. 20491-93, 87th Cong. 1st Sess.

Mr. Speaker, I reserve the balance of my time.

MR. POAGE: Does the gentleman have any other speaker? We have only one more speaker.

MR. GROSS: I understand that under the rules it is not necessary to rotate time under a suspension of the rules.

THE SPEAKER PRO TEMPORE: That is correct.

Speaker pro tempore Carl Albert, of Oklahoma, answered a similar parliamentary inquiry on Apr. 16, 1962:

MR. [JAMES] ROOSEVELT [of California]: Mr. Speaker, I have only one more request for time.

MR. GROSS: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. GROSS: Under suspension of the rules it is not necessary to rotate time. Is that correct?

THE SPEAKER PRO TEMPORE: The proponents of the measure are entitled to close the debate.[11]

Control of Time in Opposition

§ 13.10 Where a Member states that he is opposed to a motion to suspend the rules and is recognized to demand a second thereon, he controls the time in opposition to the motion; the Chair questions neither his motives nor his allocation of the time and a point of order will not lie against the manner in which he allocates the time in opposition.

On Dec. 15, 1969,[12] Mr. Robert W. Kastenmeier, of Wisconsin, moved to suspend the rules and pass H.R. 14646 (granting the consent of Congress to the Connecticut-New York Railroad Passenger Transportation Compact). Mr. Burt L. Talcott, of California, demanded a second and assured Speaker John W. McCormack, of Massachusetts, that he was opposed to the bill; he was recognized to demand a second and to control time in opposition to the motion.

When a point of order was made against the method in which Mr. Talcott was allocating the time in opposition to the motion, the Speaker overruled the point of order:

THE SPEAKER: Each gentleman in charge of time has 1 minute remaining.

MR. [LESTER L.] WOLFF [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state his point of order.

MR. WOLFF: The gentleman from California (Mr. Talcott) when he was asked whether or not he opposed the legislation, said that he did. However, he has not yielded any time whatsoever to any opponents of the bill.

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[11] 108 CONG. REC. 6688, 87th Cong. 2d Sess.

[12] 115 CONG. REC. 39029, 91st Cong. 1st Sess.

The Speaker: That is not within the province of the Chair.[13]

The following exchange then took place:

The Speaker: The time of the gentleman from Wisconsin has expired.

The Chair recognizes the gentleman from California (Mr. Talcott).

Mr. Talcott: Mr. Speaker, I am opposed to the bill.

I just wish to say that I have tried to allot time to anyone who requested it.

I now yield the 1 minute remaining to the gentleman from New York (Mr. Smith).[14]

§ 13.11 The Member demanding the second on a motion to suspend the rules, and not the Member objecting to the unanimous-consent request that a second be considered as ordered, is entitled to recognition for debate against the motion.

On Sept. 1, 1959,[15] Mr. Thomas B. Curtis, of Missouri, demanded a second on a motion to suspend the rules, and Mr. H. R. Gross, of Iowa, objected to the unanimous-consent request that a second be considered as ordered. The House having ordered a second, Speaker pro tempore Hale Boggs, of Louisiana, answered a parliamentary inquiry on who would be recognized to control the 20 minutes of debate in opposition to the motion:

Mr. Curtis of Missouri: Under this procedure does the gentleman from Iowa control the time or does the gentleman from Missouri who demanded the second have control of the time?

The Speaker Pro Tempore: The gentleman from Missouri demanded a second, and the gentleman from Missouri will control the time.

§ 13.12 A demand for a second by a Member opposed to a motion to suspend the rules (to gain control of the time in opposition to the motion) does not exist where the House has previously adopted a resolution fixing the control of debate on such a motion.

On Sept. 20, 1943,[16] the House adopted a motion to suspend the rules and pass a resolution which provided for time and control of debate on another motion to suspend the rules:

Resolved, That the time for debate on a motion to suspend the rules and pass House Concurrent Resolution 25 shall be extended to 4 hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and said motion to suspend the rules shall be the continuing order of business of the House until finally disposed of.

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[13] *Id.* at p. 39034.

[14] *Id.*

[15] 105 Cong. Rec. 17600, 86th Cong. 1st Sess.

[16] 89 Cong. Rec. 7646–55, 78th Cong. 1st Sess.

When the motion to suspend the rules so provided for was offered, Speaker Sam Rayburn, of Texas, indicated that the right to demand a second did not exist under the circumstances:

Mr. [Sol] Bloom [of New York]: Mr. Speaker, I move to suspend the rules and pass House Concurrent Resolution 25 with an amendment, which I send to the Clerk's desk.

The Speaker: The Clerk will report the resolution as amended.

The Clerk read as follows:

> *Resolved by the House of Representatives (the Senate concurring)*, That the Congress hereby expresses itself as favoring the creation of appropriate international machinery with power adequate to establish and to maintain a just and lasting peace, among the nations of the world, and as favoring participation by the United States therein through its constitutional processes.

Mr. [Charles A.] Eaton [of New Jersey]: Mr. Speaker, I demand a second.

Mr. Bloom: Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

Mr. [Clare E.] Hoffman [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Hoffman: May a second be demanded by one who is not opposed to the resolution?

The Speaker: That was practically cured by the resolution just passed, which provides that the time shall be in control of the gentleman from New York [Mr. Bloom] and the gentleman from New Jersey [Mr. Eaton]. The formality was gone through.

Mr. [John M.] Robsion of Kentucky: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Robsion of Kentucky: Mr. Speaker, I raise the point that the time now provided is in the control entirely of four Members.

The Speaker: The House decided by a vote of 252 to 23 that that was to be the program.

Mr. Robsion of Kentucky: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Robsion of Kentucky: Mr. Speaker, I understand that the Speaker ruled that a second is ordered, and then the same persons who control the time controlled the 40 minutes.

The Speaker: The House ordered that by unanimous consent. The gentleman from New Jersey [Mr. Eaton] demanded a second, and a second was ordered by unanimous consent. However, that was a formality, because the time was already controlled by the terms on the resolution under which the House suspended the rules.

Mover Opens and Closes Debate

§ 13.13 Under Rule XXVII clause 3, the Member making a motion

to suspend the rules and the Member demanding a second are each entitled to 20 minutes of debate, and the Speaker will first recognize the mover of the motion to consume as much of his time as he desires.

On Dec. 7, 1970,(17) Mr. L. Mendel Rivers, of South Carolina, had offered a motion to suspend the rules and Mr. Robert L. Leggett, of California, had been recognized by Speaker John W. McCormack, of Massachusetts, to demand a second. The Speaker indicated how debate would proceed on the motion:

THE SPEAKER: The gentleman from South Carolina will be recognized for 20 minutes and the gentleman from California will be recognized for 20 minutes.

MR. [WILLIAM F.] RYAN [of New York]: Mr. Speaker, will the gentleman from South Carolina yield?

MR. RIVERS: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RIVERS: The time is allocated 40 minutes——

THE SPEAKER: The Chair is unable to hear the gentleman.

MR. RIVERS: The time is allocated 20 minutes to the committee and 20 minutes to the gentleman from California.

THE SPEAKER: The gentleman from South Carolina has been recognized for 20 minutes.

MR. RIVERS: And 20 minutes to the gentleman from California (Mr. Leggett)?

THE SPEAKER: That is correct.

MR. RIVERS: Now, what priority will the time be allocated? Does he speak first or I speak first, or who is in charge at this point in time?

THE SPEAKER: The gentleman from South Carolina presenting the resolution and being the advocate thereof will be recognized first. The gentleman, however, if he does not desire to use his time at this time, then the Chair will recognize the gentleman from California (Mr. Leggett) for 20 minutes.

§ 13.14 Where the Member who demands a second on a motion to suspend the rules has been recognized for 20 minutes of debate, it is customary for the Speaker to recognize the Member making the motion to conclude the debate with any time remaining to him.

On Dec. 30, 1970,(18) Speaker John W. McCormack, of Massachusetts, indicated that the Member offering a motion to suspend the rules and recognized to control 20 minutes of debate in favor of the motion should be recognized to close debate thereon:

MR. [WRIGHT] PATMAN [of Texas]:

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17. 116 CONG. REC. 40114, 91st Cong. 2d Sess.

18. 116 CONG. REC. 44174, 91st Cong. 2d Sess.

Mr. Speaker, will the gentleman from Iowa use his 4 remaining minutes now, and I will use my 4 remaining minutes after he completes his presentation.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Gross: Mr. Speaker, am I correct in my impression that this is a motion to suspend the rules?

The Speaker: The Chair will state that the gentleman's impression is correct.

Mr. Gross: Then, the rules are suspended insofar as the conclusion of debate is concerned, Mr. Speaker.

The Speaker: The Chair would ask the gentleman from Iowa if the gentleman is going to use his remaining time.

Mr. Gross: Yes, Mr. Speaker, I intend to use my time.

The Speaker: Then, the Chair will recognize the gentleman from Iowa. The gentleman from Iowa has 4 minutes remaining and under the custom the gentleman from Texas (Mr. Patman) should have the final time.

On Apr. 16, 1962, Speaker pro tempore Carl Albert, of Oklahoma, indicated in response to a parliamentary inquiry that the Member offering a motion to suspend the rules had the right to close debate thereon:

Mr. [James] Roosevelt [of California]: Mr. Speaker, I have only one more request for time.

Mr. Gross: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Gross: Under suspension of the rules it is not necessary to rotate time. Is that correct?

The Speaker Pro Tempore: The proponents of the measure are entitled to close the debate.(19)

Where Second Not Demanded

§ 13.15 Where no Member demands a second on a motion to suspend the rules and pass a bill, the Speaker may immediately put the question on the motion.

On Aug. 1, 1955,(20) the House (Speaker Sam Rayburn, of Texas, presiding) proceeded as follows on a motion to suspend the rules:

Mr. [John A.] Blatnik [of Minnesota]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2552) to authorize the modification of the existing project for the Great Lakes connecting channels above Lake Erie.

The Clerk read as follows:

> *Be it enacted, etc.,* That the project for improvement of the Great Lakes connecting channels above Lake Erie is hereby modified to provide controlling depths of not less than 27 feet, the work to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers in accordance with plans approved by the Chief of

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19. 108 Cong. Rec. 6688, 87th Cong. 2d Sess.

20. 101 Cong. Rec. 12663, 84th Cong. 1st Sess.

Engineers, in the report submitted in Senate Document No. 71, 84th Congress 1st session.

Sec. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this act.

The Speaker: Is a second demanded? [After a pause.] The question is on suspending the rules and passing the bill.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

Motion to Adjourn

§ 13.16 Only one motion to adjourn is admissible during consideration of a motion to suspend the rules.

On July 21, 1947,[1] a motion to adjourn was offered by Mr. Tom Pickett, of Texas, while the House had under consideration a motion to suspend the rules and pass H.R. 290, to make unlawful the requirement for the payment of a poll tax as a prerequisite to voting in national elections. The motion to adjourn was rejected on a yea and nay vote.

Speaker Joseph W. Martin, Jr., of Massachusetts, held to be dilatory a subsequent point of order that a quorum was not present, and then ruled that a second motion to adjourn was not in order:

Mr. [Thomas J.] Murray of Tennessee: Mr. Speaker, I move that the House do now adjourn.

The Speaker: That motion is not in order. Under the precedents, a motion to adjourn is not in order until the final vote upon the motion to suspend the rules and pass the bill.

Previous Question

§ 13.17 The motion for the previous question is not applicable to a resolution where it is being considered under suspension of the rules.

On June 18, 1948,[2] Mr. Walter G. Andrews, of New York, moved to suspend the rules and pass House Resolution 690, providing that the House insist upon its amendment to a Senate bill, ask a conference with the Senate, and that the Speaker immediately appoint conferees. Speaker Joseph W. Martin, Jr., of Massachusetts, indicated that the motion for the previous question was not in order:

Mr. [John E.] Rankin [of Mississippi]: I wish to say that if the gentleman wishes to do so, as soon as the previous question is ordered it is in order to offer a motion to instruct conferees. That is the rule of the House that has always been followed.

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[1] 93 Cong. Rec. 9529, 80th Cong. 1st Sess.

[2] 94 Cong. Rec. 8829, 8830, 80th Cong. 2d Sess.

THE SPEAKER: The Chair will inform the gentleman from Mississippi that there is no previous question to be ordered, that the House is now considering under a suspension of the rules House Resolution 690, which carries the following provision:

> That the House insist upon its amendments to the bill of the Senate, S. 2655, ask for a conference with the Senate on the disagreeing votes of the two Houses, and that the Speaker immediately appoint conferees.

MR. RANKIN: Mr. Speaker, will the gentleman yield?

MR. [VITO] MARCANTONIO [of New York]: I yield to the gentleman from Mississippi.

MR. RANKIN: It has always been the rule and it is the rule now.

THE SPEAKER: But this is under a suspension of the rules and it would not be in order after the adoption of the pending resolution to offer such a motion.

MR. RANKIN: Then it is changing the rules of the House.

Parliamentarian's Note: A motion to instruct conferees is only in order after the House has requested or agreed to a conference and before the Speaker appoints conferees; the resolution pending in this instance precluded any intervening motion, i.e., a motion to instruct. Whether or not the previous question is in order has no bearing on the timeliness of a motion to instruct when a bill is sent to conference; the inquiry apparently confused that situation with a motion to recommit a conference report with instructions after the previous question has been ordered on the adoption of the report (where the House acts first on the report).

Special Order Governing Time and Control of Debate

§ 13.18 The House under a motion to suspend the rules passed a resolution extending the time for debate to four hours on a motion to suspend the rules and pass a concurrent resolution, and fixing control of time.

On Sept. 20, 1943,(3) Mr. John W. McCormack, of Massachusetts, moved to suspend the rules and pass a resolution altering the method of consideration of another motion to suspend the rules, and explained its provisions:

MR. MCCORMACK: Mr. Speaker, I move to suspend the rules and pass the resolution (H. Res. 302), which I send to the Clerk's desk.

The Clerk read as follows:

> *Resolved,* That the time for debate on a motion to suspend the rules and pass House Concurrent Resolution 25 shall be extended to 4 hours, such time to be equally divided and controlled by the chairman and ranking minority member of the

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3. 89 CONG. REC. 7646, 78th Cong. 1st Sess.

Committee on Foreign Affairs; and said motion to suspend the rules shall be the continuing order of business of the House until finally disposed of.

THE SPEAKER:(4) Is a second demanded?

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I demand a second.

MR. MCCORMACK: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

THE SPEAKER: Is there objection to the request of the gentleman from Massachusetts [Mr. McCormack]?

There was no objection.

MR. MCCORMACK: Mr. Speaker, I yield myself 9 minutes.

Mr. Speaker, the purpose of this resolution just reported by the Clerk is simply to provide that under suspension of the rules that will take place debate on the Fulbright resolution will be extended to a period of 4 hours. As we all know, under the rules of the House, unless this resolution is adopted, debate would be limited to 40 minutes, 20 minutes on each side.

The motion to suspend the rules on the Fulbright resolution will be made in accordance with the rules of the House, rules that have existed for many years and which this House, without regard to what party was in power or in control of the House, provided many years ago. The motion to suspend the rules on the Fulbright resolution, therefore, is strictly in accordance with the rules provided for by this body and by many Congresses of the past. Needless to say, I hope the resolution will be adopted as it is proposed to extend the debate for a period of 4 hours.

The House adopted the motion to suspend the rules and pass the resolution.

Unanimous-consent Requests

§ 13.19 The Speaker may decline to recognize a request for unanimous consent to insert material in the Record during consideration of a motion to suspend the rules.

On July 21, 1947,(5) the House had under debate a motion, offered by Mr. Ralph A. Gamble, of New York, to suspend the rules and pass H.R. 29 (making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in national elections). Speaker Joseph W. Martin, Jr., of Massachusetts, refused to entertain unanimous-consent requests:

MR. [TOM] PICKETT [of Texas]: Mr. Speaker, I ask unanimous consent——

THE SPEAKER: The Chair will refuse to entertain any unanimous-consent requests until after the vote on this bill.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

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4. Sam Rayburn (Tex.).

5. 93 CONG. REC. 9525, 80th Cong. 1st Sess.

Mr. Rankin: That is the most unusual ruling that I have ever heard of, to shut us off——

The Speaker: That is the ruling of the Chair.

Mr. Rankin: From putting material in the Record.

The Speaker: The Chair is perfectly willing to have the material put in the Record, and the gentleman should so put the request immediately after the vote.

The time of the gentleman from Texas has expired.

§ 13.20 After a second is ordered on a motion to suspend the rules and pass a bill, it is not in order to change in any particular the language in the bill as called up under suspension (except by unanimous consent).

On June 9, 1930,(6) a second had been ordered on a motion to suspend the rules and pass a bill, and the bill had been reread by unanimous consent. A Member objected that the second reading did not conform with the first, and proceedings were vacated by unanimous consent:

Mr. [George] Huddleston [of Alabama]: Mr. Speaker, my point of order is that I insist on the motion as originally made as read by the Clerk, which does not include the word "solicitor" as now read in line 14 of the amendment and the word "general" instead of "chief." I might suggest that if it is necessary to make the amendment it can be made in the Senate.

Mr. [Homer] Hoch [of Kansas]: A parliamentary inquiry, Mr. Speaker.

The Speaker:(7) The gentleman will state it.

Mr. Hoch: I understood the gentleman from New York moved to suspend the rules and pass the bill with an amendment; and this is a part of the amendment that was suggested.

The Speaker: But the point is made that this amendment was not read by the Clerk at this time.

Mr. Hoch: It was the Clerk's mistake.

The Speaker: The Chair is informed by the Clerk that he read what was sent to the desk.

Mr. [James S.] Parker [of New York]: The Clerk did.

Mr. [Carl E.] Mapes [of Michigan]: Mr. Speaker, I ask unanimous consent that the proceedings be vacated.

The Speaker: The gentleman from Michigan asks unanimous consent that the gentleman from New York may be permitted to withdraw his original motion. Is there objection?(8)

There was no objection.

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6. 72 Cong. Rec. 10331, 71st Cong. 2d Sess.

7. Nicholas Longworth (Ohio).

8. See also 104 Cong. Rec. 8004, 85th Cong. 2d Sess., May 5, 1958, where a motion to suspend the rules and pass a bill was withdrawn by unanimous consent after a second was ordered; a new motion was then made to suspend the rules and pass the same bill with an amendment.

Withdrawing Motion Under Consideration

§ 13.21 After a second has been ordered on a motion to suspend the rules, the motion may be withdrawn only by unanimous consent.

On Dec. 5, 1932, Speaker John N. Garner, of Texas, stated in response to a parliamentary inquiry that once a motion to suspend the rules had been seconded, the motion could not be withdrawn (except by unanimous consent).(9)

On Dec. 21, 1970, Mr. Carl Albert, of Oklahoma, moved to suspend the rules and pass a resolution (authorizing the Speaker to declare recesses for the remainder of the session). Mr. H. R. Gross, of Iowa, demanded a second and made the point of order that a quorum was not present. Mr. Albert withdrew the resolution and Mr. Gross withdrew his point of order.(10)

§ 13.22 A motion to suspend the rules, on which a second had been ordered, remained undisposed of at adjournment as the unfinished business and was, on the next day when such motion was again in order, withdrawn by unanimous consent.

On May 5, 1958,(11) which was a suspension day, the unfinished business was a motion to suspend the rules on which a second had been ordered on a previous day. The motion was withdrawn by unanimous consent:

> MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, I ask unanimous consent to vacate proceedings under suspension of the rules held 2 weeks ago on the bill (H.R. 11414) to amend section 314(c) of the Public Health Service Act, so as to authorize the Surgeon General to make certain grants-in-aid for the support of public or nonprofit educational institutions which provide training and services in the fields of public health and in the administration of State and local public health programs.
>
> THE SPEAKER PRO TEMPORE: Is there objection?
>
> There was no objection.

§ 13.23 A motion to suspend the rules and pass a bill may, by unanimous consent, be withdrawn after there has been debate on the motion and the Speaker has put the question on its adoption.

On May 6, 1963,(12) Mr. Donald R. Matthews, of Florida, had

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9. 76 CONG. REC. 7-13, 72d Cong. 2d Sess. See also § 13.20, supra.

10. 116 CONG. REC. 43069, 91st Cong. 2d Sess.

11. 104 CONG. REC. 8004, 85th Cong. 2d Sess.

12. 109 CONG. REC. 7815, 88th Cong. 1st Sess.

offered a motion to suspend the rules on which a second had been demanded and which had been debated. Speaker John W. McCormack, of Massachusetts, put the question on the motion that the House suspend the rules and pass the bill. Mr. Carl Albert, of Oklahoma, then asked unanimous consent that the motion to suspend the rules and pass the bill be withdrawn; there was no objection.

§ 14. Amendments to Propositions Under Suspension

The motion to suspend the rules may be used to pass a bill or resolution with additions, corrections, or deletions. In this situation, the proponent offers the motion "I move to suspend the rules and pass the bill with amendments." He transmits the copy of the bill, with the amendments included therein, to the Clerk. The bill and amendments proposed thereto (whether reported from committee or offered independently by the Member making the motion) are reported (usually by title only) and considered as one entity, and no separate vote is taken on the amendments.(13) A motion to suspend the rules and pass a bill with amendments is not, however, subject to amendment on the floor; and the proponent of the motion may not yield for amendment.(14) If it is desired, after a motion to suspend the rules and pass a bill has been offered, to amend the proposition, it is necessary to withdraw the motion and reoffer it in a new form.(15) The prohibition against offering amendments to propositions under suspension of the rules includes pro forma amendments and motions to strike the enacting clause.(16)

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13. For the motion to pass a bill with amendments, see §§ 14.1–14.3, infra. For reporting the motion, see §§ 14.4, 14.5, infra, and for the prohibition against a separate vote on amendments, see § 15.5, infra.

Usually the Clerk reports only the title of a bill brought up under suspension, whether or not amendments are part of the motion (although the full text is printed in the Record). The Chair may, however, direct the Clerk to report an amendment which has not been printed in the bill (see § 14.4, infra). See § 12.21, supra, where on a motion to suspend the rules and agree to a resolution amending a Senate amendment with an amendment consisting of text of a separate numbered House bill the Speaker considered the reading of the resolution itself to be sufficient.

14. See §§ 14.6, 14.7, infra.

15. See § 14.3, infra. For withdrawal of motions to suspend the rules which are under debate, see §§ 13.21–13.23, supra.

16. See §§ 14.11 and 14.12, infra.

Motion to Suspend Rules and Pass Bill With Amendment

§ 14.1 While it is not in order to offer an amendment to a bill being considered under a motion to suspend the rules, the Speaker may recognize a Member for a motion to suspend the rules and pass a bill with amendments.

On June 16, 1952,[17] Speaker Sam Rayburn, of Texas, recognized for a motion to suspend the rules and pass a bill with amendments and overruled a point of order against the motion:

> MR. [ROBERT L.] DOUGHTON [of North Carolina]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7800) to amend title II of the Social Security Act to increase old-age and survivors insurance benefits, to preserve insurance rights of permanently and totally disabled individuals, and to increase the amount of earnings permitted without loss of benefits, and for other purposes, with amendments that I send to the Clerk's desk.
>
> MR. [CARL T.] CURTIS of Nebraska: Mr. Speaker, I make a point of order against the motion.
>
> THE SPEAKER: Does the gentleman make a point of order against the motion to suspend the rules?
>
> MR. CURTIS of Nebraska: Against the motion to suspend the rules and to offer an amendment. My point of order is that an amendment cannot be offered under a motion to suspend the rules.
>
> THE SPEAKER: This rule has been in effect for a long time. As long as the Chair recognizes a Member to suspend the rules, and one in charge has the right to offer the motion to suspend the rules. A point of order would not lie in a case like that.
>
> MR. CURTIS of Nebraska: Mr. Speaker, may I be heard?
>
> THE SPEAKER: The Chair will be glad to hear the gentleman but will perhaps repeat the decision when the gentleman gets through.
>
> MR. CURTIS of Nebraska: Mr. Speaker, I regret that situation very much and perhaps I should not take the time. I shall try to be brief.
>
> It is my contention that the procedure to suspend the rules and pass a bill is that we must take the bill as is in a motion to suspend the rules and by the very nature of the limited time involved for debate the motion must be to pass without amendment.
>
> There are two or three decisions that are reported in the Fifth Volume of Hinds' Precedents. I will not at this time refer to all of them, but I call attention to paragraph 5322 of Hinds' Precedents where it is stated in the caption:
>
>> The motion to amend may not be applied to a motion to suspend the rules.
>
> THE SPEAKER: The Chair is ready to rule again.
>
> Suspension of the rules is a matter that can come up only twice a month, either on the first and third Mondays, or the last 6 days of the session if an adjournment date has been fixed. There

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[17] 98 CONG. REC. 7287, 7288, 82d Cong. 2d Sess.

can be no amendment offered to the motion to suspend the rules and pass a bill, but it is entirely in order for the Speaker to recognize a Member to move to suspend the rules and pass a bill with amendments and recognition for that is entirely within the discretion of the Chair. The Chair can recognize a Member to move to suspend the rules on the proper day and pass a bill with an amendment that has been authorized by a committee, or if the Chair so desires he can recognize a Member to move to suspend the rules and pass a bill with his own amendment.

The Chair overrules the point of order made by the gentleman from Nebraska.

Mr. Curtis of Nebraska: Mr. Speaker, a further parliamentary inquiry. Would it be possible to offer a substitute motion to suspend the rules in reference to the motion now before the Chair?

The Speaker: Well, the Chair would not recognize the gentleman for that purpose.

Mr. Curtis of Nebraska: Perhaps I could induce another Member to offer the amendment.

The Speaker: The Chair would not recognize any other Member to make that motion.

§ 14.2 Under a motion to suspend the rules and pass a bill with amendments it is not necessary for the mover to obtain approval of the amendments by the committee which reported the measure.

On July 17, 1950,(18) where a Member was recognized by Speaker Sam Rayburn, of Texas, to move to suspend the rules and pass a bill with amendments, the Speaker discussed such procedure in response to parliamentary inquiries and ruled that the amendment brought up under the motion need not be authorized by the committee with jurisdiction:

> Mr. [Francis E.] Walter [of Pennsylvania]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10) to facilitate the deportation of aliens from the United States, to provide for the supervision and detention pending eventual deportation of aliens whose deportation cannot be readily effectuated because of reasons beyond the control of the United States, and for other purposes, as amended.
>
> The Clerk read the title of the bill.
>
> The Speaker: Is a second demanded?
>
> Mr. [Emanuel] Celler [of New York]: Unless a second is demanded on the other side, I shall demand a second, Mr. Speaker.
>
> The Speaker: Without objection, a second is considered as ordered.
>
> There was no objection.

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18. 96 Cong. Rec. 10448, 81st Cong. 2d Sess.

See § 14.4, infra, for reporting a motion to suspend the rules and pass a bill with amendments.

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Marcantonio: The motion that was made was to pass the bill as amended. The amendments are a part of the bill as reported by the committee, or what is the situation?

The Speaker: There are some additional amendments.

Mr. Marcantonio: Not reported by the committee?

The Speaker: The Chair assumes that the gentleman from Pennsylvania who made the motion was authorized by the committee to make the amendments.

Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Michener: Is this bill called up under a straight suspension of the rules?

The Speaker: Yes.

Mr. Michener: Was the motion that the bill be called up under suspension of the rules, together with amendments?

The Speaker: That is correct.

Mr. Michener: How many amendments? Under the rules, they must designate the amendments.

The Speaker: The Chair understands there are committee amendments and amendments to the committee amendments.

Mr. Celler: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Celler: I think the House should know whether those amendments were approved by the Judiciary Committee.

The Speaker: The gentleman from Pennsylvania [Mr. Walter] will be able to answer that.

Mr. Celler: I have no recollection as chairman of the Judiciary Committee, that those amendments were approved by the committee.

The Speaker: The gentleman at least makes a motion to suspend all the rules and pass this bill with amendments, which the Chair thinks is a proper motion.

Mr. Celler: Can that motion be made to suspend the rules and pass the bill with amendments, if those amendments are simply the amendments of the proposer of the bill who makes the motion and not amendments of the committee?

The Speaker: The gentleman from Pennsylvania [Mr. Walter] made the motion to suspend the rules and pass the bill with amendments. The Chair has recognized the gentleman for that purpose.

Mr. Michener: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Michener: I have never known a time when you could maintain a motion of that type. The number of amendments must be specified, not just the general statement "with amendments."

The Speaker: If the gentleman

insists, the Clerk will report the bill as amended.

Mr. Michener: I do not insist, but I should like to know whether there is going to be at least definite amendment or whether it is to be left indefinite.

The Speaker: The Chair would assume that in the 20 minutes allotted to the gentleman from Pennsylvania he would discuss the amendments.

§ 14.3 A motion to suspend the rules having been withdrawn by unanimous consent, a new motion to suspend the rules and pass the bill with an amendment was then made; a second was ordered and, after debate, the motion was agreed to.

On May 5, 1958,(19) unfinished business was a motion to suspend the rules, coming over from a previous suspension day, on which a second had been ordered. The motion was withdrawn in order that the motion could be reoffered to pass the same bill but with amendments:

Mr. [Oren] Harris [of Arkansas]: Mr. Speaker, I ask unanimous consent to vacate proceedings under suspension of the rules held 2 weeks ago on the bill (H.R. 11414) to amend section 314(c) of the Public Health Service Act, so as to authorize the Surgeon General to make certain grants-in-aid for the support of public or nonprofit educational institutions which provide training and services in the fields of public health and in the administration of State and local public health programs.

The Speaker Pro Tempore: Is there objection?

There was no objection.

Mr. Harris: Mr. Speaker, I move to suspend the rules and pass the bill H.R. 11414, with amendments.

The Clerk reported the bill, as amended.

Reporting Motion to Suspend Rules and Pass Bill With Amendments

§ 14.4 Where the Chair has recognized for a motion to suspend the rules and pass a bill with amendments, only the title of the bill is normally read by the Clerk, and the amendments are not reported separately, since the suspension procedure waives normal reading requirements; but the Chair may in his discretion, where objection is made to that procedure, require the reading of an amendment which is not printed or otherwise available.

On July 17, 1950,(20) a motion to suspend the rules and pass a bill with amendments was offered:

Mr. [Francis E.] Walter [of Pennsylvania]: Mr. Speaker, I move to

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19. 104 Cong. Rec. 8004, 85th Cong. 2d Sess.

20. 96 Cong. Rec. 10448, 10449, 81st Cong. 2d Sess.

suspend the rules and pass the bill (H.R. 10) to facilitate the deportation of aliens from the United States, to provide for the supervision and detention pending eventual deportation of aliens whose deportation cannot be readily effectuated because of reasons beyond the control of the United States, and for other purposes, as amended.

The Clerk then reported the bill by title.

Following a parliamentary inquiry, Speaker Sam Rayburn, of Texas, directed the Clerk to report the bill as amended:

Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Michener: I have never known a time when you could maintain a motion of that type. The number of amendments must be specified, not just the general statement "with amendments."

The Speaker: If the gentleman insists, the Clerk will report the bill as amended.

Mr. Michener: I do not insist, but I should like to know whether there is going to be at least definite amendment or whether it is to be left indefinite.

The Speaker: The Chair would assume that in the 20 minutes allotted to the gentleman from Pennsylvania he would discuss the amendments.

Mr. [Emanuel] Celler [of New York]: Mr. Speaker, is it in order for me to ask that the amendments be read?

The Speaker: The Clerk will report the bill as amended.

The Speaker indicated, in response to a further parliamentary inquiry, that a separate vote was not in order on amendments brought up under a motion to suspend the rules:

Mr. [Herman P.] Eberharter [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Eberharter: Will the House have an opportunity to vote separately on the amendments just read? Was that only one amendment that the Clerk read or was it several?

The Speaker: The gentleman from Pennsylvania made a motion to suspend the rules and pass the bill as amended, the amendment being to strike out all after the enacting clause and insert other matter.

Mr. Eberharter: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Eberharter: May any further amendments be offered now?

The Speaker: No. The gentleman from Pennsylvania [Mr. Walter] is recognized.

§ 14.5 While a motion to suspend the rules and pass a bill with certain amendments is under debate, the amendments may

be reread to the House, without consuming part of the time for debate, by unanimous consent.

On Sept. 7, 1959,[1] the House had under debate a motion, offered by Mr. Thomas J. Murray, of Tennessee, to suspend the rules and pass a bill with certain amendments. Mr. H. R. Gross, of Iowa, who had been recognized to demand a second and to control the debate in opposition to the motion, propounded a unanimous-consent request where Speaker pro tempore Paul J. Kilday, of Texas, indicated that the request would be in order:

> MR. GROSS: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.
>
> MR. GROSS: Would it be possible to have the amendments offered by the gentleman from Tennessee read, without it coming out of his time?
>
> THE SPEAKER PRO TEMPORE: By unanimous consent that could be done.
>
> MR. GROSS: Mr. Speaker, I ask unanimous consent that the amendments be read at this time.
>
> THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Iowa?
>
> There was no objection.
>
> The Clerk read as follows: . . .

No Amendments to Motion To Suspend Rules and Pass Bill With Amendments

§ 14.6 Only those amendments included in a motion to suspend the rules and pass a bill are in order to a bill being considered under that procedure, and the Member making that motion may not yield to other Members for further amendment.

On Oct. 18, 1971,[2] the Chairman of the Committee on Education and Labor offered a motion to suspend the rules and pass a bill with amendments:

> MR. [CARL D.] PERKINS [of Kentucky]: Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 923) to assure that every needy schoolchild will receive a free or reduced price lunch as required by section 9 of the National School Lunch Act, as amended.

Section 7 of the joint resolution, as amended, authorized the Secretary of Agriculture to transfer funds from a previous act for a new purpose, a provision which would have been subject to a point of order if the joint resolution were not brought up under suspension. Speaker Carl Albert, of Oklahoma, indicated, in response to a parliamentary inquiry, that an amendment offered from the floor to delete that provision would not be in order, and that only amendments included in the motion to suspend the rules were in order:

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[1] 105 CONG. REC. 17437, 86th Cong. 1st Sess.

[2] 117 CONG. REC. 36507, 36508, 92d Cong. 1st Sess.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, my parliamentary inquiry is that inasmuch as section 7 of this House Joint Resolution 923 would under normal circumstances and methods of consideration obviously be subject to a point of order because it involves a transfer of funds in an authorization bill, at what point under the motion to suspend the rules could such a point of order be offered?

THE SPEAKER: The Chair will state to the gentleman from Missouri that the motion made by the gentleman from Kentucky (Mr. Perkins), itself calls for a suspension of the rules, which means all the rules, and, therefore, there would be no point in the consideration of the joint resolution under a suspension of the rules to make that point of order.

MR. HALL: Mr. Speaker, a further parliamentary inquiry. Does the Chair mean to inform the Members of the House that the only way that we could get redress and relief from what would otherwise be a point of order, would be if the committee moved to suspend the rules and pass the bill with an amendment deleting that section?

THE SPEAKER: The Chair will advise the gentleman from Missouri that the joint resolution comes to the floor under a motion to suspend the rules and pass it with amendments. The amendments will be under consideration, but only the amendments which are embraced in the motion made by the gentleman from Kentucky are in order.

MR. HALL: Therefore, if this motion passes and we do suspend the rules, unless the gentleman making the motion yielded for the purpose of an amendment there would be no way to seek relief?

THE SPEAKER: The Chair will inform the gentleman from Missouri that the gentleman who is making the motion to suspend the rules and pass this joint resolution cannot yield for the purpose of further amendment.

§ 14.7 Where a bill and designated amendments thereto are being considered under a motion to suspend the rules and pass the bill, as amended, further amendments from the floor are not in order, and the Speaker will not entertain a unanimous-consent request to permit floor amendments to be offered.

On Feb. 7, 1972,(3) Speaker Carl Albert, of Oklahoma, stated, in response to parliamentary inquiries, that floor amendments could not be offered to a bill brought up, as amended, under a motion to suspend the rules, even by unanimous consent:

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

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3. 118 CONG. REC. 2882, 92d Cong. 2d Sess.

The Speaker: The gentleman will state it.

Mr. Gross: The bill, as I understand it, is brought up under suspension of the rules and therefore is not subject to amendment. Is that correct?

The Speaker: The gentleman is correct.

Mr. Gross: Then, in its present form, it cannot be amended.

The Speaker: The gentleman to qualify, must be opposed to the bill.

Mr. Gross: Mr. Speaker, I am opposed to it without reservation.

The Speaker: The gentleman from Iowa (Mr. Gross), is recognized.

Mr. [Lawrence G.] Williams [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Williams: Is it possible to amend a bill that is brought up under suspension of the rules by unanimous consent?

The Speaker: It is not possible to amend by unanimous consent if the bill is brought up under suspension of the rules.

Mr. Williams: It is not possible.

The Speaker: The Chair will not recognize a Member for that purpose.

Floor Amendments Not in Order

§ 14.8 Amendments from the floor are not in order to propositions being considered under suspension of the rules.

On Dec. 21, 1973,[4] Speaker Carl Albert, of Oklahoma, answered an inquiry on offering amendments to a resolution being offered under a motion to suspend the rules (pending a demand for a second on the motion):

> Mr. [Joe D.] Waggonner [Jr., of Louisiana]: Mr. Speaker, if the rules are suspended, will then amendments be in order to the bill on which it is proposed to suspend the rules and consider?
>
> The Speaker: The suspension of the rules, as the gentleman knows, means that all rules are suspended. The resolution itself orders the action which the House will take.

Speaker Albert answered a similar inquiry, pending a motion to suspend the rules and pass a bill, on Mar. 20, 1972:[5]

> Mr. [Phillip M.] Landrum [of Georgia]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.
>
> Mr. Landrum: Under the rules of suspension, is an amendment in order to change the effective date of this from the last Sunday in April?
>
> The Speaker: No amendment is in order under the suspension rule.

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[4] 119 Cong. Rec. 43262, 93d Cong. 1st Sess.

[5] 118 Cong. Rec. 8989, 92d Cong. 2d Sess.

Another inquiry was answered on Apr. 17, 1972:(6)

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:(7) The gentleman will state it.

MR. HALL: Mr. Speaker, I would inquire of the gentleman who brings the bill to the floor from our Committee on Foreign Affairs whether or not it would be his intent to yield for the purpose of an amendment.

Mr. Speaker, I am well aware of the rules of the House wherein the gentleman would sacrifice control of the remaining time if he did yield for such an amendment, but I am also aware of the tradition and precedents of the House wherein we customarily strike the whereases and even the nonappropriate resolves, so I merely make that inquiry of the gentleman from New York.

MR. [BENJAMIN S.] ROSENTHAL [of New York]: I believe the parliamentary inquiry would have to be answered by the Chair rather than by myself.

MR. HALL: The gentleman is correct, of course. Mr. Speaker, would it be in order for the Chair to recognize other than the leadership handling the bill on the floor under these circumstances for the purpose of an appropriate amendment?

THE SPEAKER PRO TEMPORE: The Chair will inform the gentleman from Missouri that no amendments can be offered when the House is considering a bill under suspension of the rules.

On May 25, 1946, President Truman addressed a joint session of Congress relative to a national rail strike, and recommended the passage of urgent legislation to settle the strike (to, among other purposes, draft railroad employees into the armed services). Following the dissolution of the joint session, the legislation recommended by the President was brought up under a motion to suspend the rules, and Speaker Sam Rayburn, of Texas, indicated the motion was not subject to amendment:(8)

THE SPEAKER: The Chair recognizes the gentleman from Massachusetts [Mr. McCormack].

MR. [JOHN W.] MCCORMACK: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6578) to provide on a temporary basis during the present period of emergency for the prompt settlement of industrial disputes vitally affecting the national economy in the transition from war to peace.

The Clerk read the title of the bill.

MR. [RALPH E.] CHURCH [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. CHURCH: Is it not possible now before the bill is presented that we take at least 10 minutes to read it? This bill is 6 pages long and will not be subject to amendment, as I understand the procedure under suspension of the rules.

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6. *Id.* at p. 12931.
7. Chet Holifield (Calif.).
8. 92 CONG. REC. 5754, 79th Cong. 2d Sess.

The bill as drafted only came before us a few moments ago. Some of us have been able to prevail upon the gentleman from Massachusetts to amend section 10 so that the following words are added "or upon the date (prior to the date of such proclamation) of the passage of the concurrent resolution of the two Houses of Congress stating that such provisions and amendments shall cease to be effective."

There may be other acceptable amendments that should be included in the bill before it is offered, since it cannot be amended under the parliamentary situation we find ourselves in.

The Speaker: There will be 40 minutes in which Members may familiarize themselves with the bill and it will be followed by a reading of the bill also.

Mr. Church: A further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Church: Do I understand that the bill is not subject to amendment?

The Speaker: Not under a suspension of the rules.

§ 14.9 A motion to suspend the rules and concur in a Senate amendment to a House bill is not subject to amendment (to concur in the Senate amendment with an amendment).

On July 27, 1946,[9] Speaker Sam Rayburn, of Texas, recognized a Member to offer a motion to suspend the rules relating to a House bill with a Senate amendment on the Speaker's table:

> **Mr. [Hatton W.] Sumners** of Texas: Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the joint resolution (H.J. Res. 225) to quiet the titles of the respective States, and others, to lands beneath tidewaters and lands beneath navigable waters within the boundaries of such States and to prevent further clouding of such titles.

A second was demanded and considered as ordered, and the Speaker then ruled that the motion was not subject to amendment:

> **Mr. [Sam] Hobbs** [of Alabama]: Mr. Speaker, I offer an amendment.
>
> **The Speaker**: No amendment is in order.
>
> **Mr. Hobbs**: Mr. Speaker, I move to concur in the Senate amendment with an amendment.
>
> **The Speaker**: That motion is not in order.
>
> **Mr. Hobbs**: Mr. Speaker, I have an agreement with the gentleman from Texas that I would be permitted to offer an amendment to the Senate amendment.
>
> **The Speaker**: The Chair knows nothing about that agreement. An amendment to this motion is not in order.

§ 14.10 The Speaker stated in response to a parliamentary inquiry,

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[9] 92 Cong. Rec. 10310, 79th Cong. 2d Sess.

after recognizing a Member for unanimous consent to consider a bill, that if any amendments were to be offered he would ask that the bill be withdrawn and that a motion to suspend the rules and pass the bill be offered, because of the vital importance that the bill pass immediately and without amendment.

On July 5, 1943,(10) Speaker Sam Rayburn, of Texas, recognized Mr. John D. Dingell, of Michigan, to ask unanimous consent for the immediate consideration of S. 35, to authorize the use for war purposes of silver held or owned by the United States. In explanation of the request, Mr. Dingell stated that it was essential, for the conduct of the war, that the bill be passed without amendment as soon as possible, to avoid disagreement with the Senate and have the bill enacted into law.

The Speaker, in response to a parliamentary inquiry, indicated he would use his power of recognition to assure the bill pass without amendment:

MR. [FREDERICK C.] SMITH of Ohio: Will the gentleman yield for a parliamentary inquiry?

MR. DINGELL: I yield to the gentleman.

MR. SMITH of Ohio: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SMITH of Ohio: It is my understanding this bill will be read and will be subject to amendment, providing there is no objection to its consideration under the unanimous-consent request.

THE SPEAKER: The gentleman is correct, it would be subject to amendment, but the Chair is going to be very frank with the gentleman. If there are going to be amendments offered to this bill the Chair will request the gentleman from Michigan to withdraw his request, and then the Chair will recognize the gentleman from Michigan to move to suspend the rules and pass the bill. The Chair thinks it vitally important that this bill pass immediately, and he thinks it should be passed without amendment. The Chair will accept the responsibility if it is put up to the Chair.

Pro Forma Amendments Not in Order

§ 14.11 Pro forma amendments are not in order when a bill is being considered under suspension of the rules.

On Sept. 7, 1959,(11) a motion to suspend the rules and pass a bill

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10. 89 CONG. REC. 7213, 7214, 78th Cong. 1st Sess.

11. 105 CONG. REC. 18438, 86th Cong. 1st Sess.

with amendments was under debate, Mr. Thomas J. Murray, of Tennessee, controlling the time in favor of the motion and Mr. H. R. Gross, of Iowa, controlling the time in opposition. Speaker pro tempore Paul J. Kilday, of Texas, stated that "pro forma" amendments would not be in order:

> MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.
>
> MR. HOFFMAN of Michigan: Mr. Speaker, the parliamentary inquiry is, Is it permissible now under the situation which has developed to move to strike out the last word?
>
> THE SPEAKER PRO TEMPORE: No, it is not. The time is under the control of the gentleman from Tennessee and the gentleman from Iowa.

Motion to Strike Enacting Clause Not in Order

§ 14.12 Since the motion to suspend the rules and pass a bill is not subject to amendment, a motion to strike out the enacting clause, in effect a preferential amendment, is not in order.

On June 15, 1959,[12] the House had under debate a motion to suspend the rules and pass H.R. 7650. Speaker pro tempore Clark W. Thompson, of Texas, ruled that a preferential motion to strike out the enacting clause (to obtain time for debate) was not in order:

> MR. [BYRON G.] ROGERS of Colorado: Mr. Speaker, I move to strike out the enacting clause of H.R. 7650.
>
> THE SPEAKER PRO TEMPORE: That privilege is not available when a bill is being considered under suspension of the rules.
>
> MR. ROGERS of Colorado: Mr. Speaker, is there any way that a Member of the House of Representatives can speak on H.R. 7650 before the matter is put to a vote?
>
> THE SPEAKER PRO TEMPORE: Only if the gentlewoman from Massachusetts chooses to yield time to the gentleman.

Speaker Sam Rayburn, of Texas, delivered a similar ruling on Aug. 5, 1957:[13]

> MR. ROGERS of Colorado: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. ROGERS of Colorado: Mr. Speaker, is a motion to strike out the enacting clause in order at this time?
>
> THE SPEAKER: A motion to strike out the enacting clause is not in order under a motion to suspend the rules.

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[12] 105 CONG. REC. 10810, 86th Cong. 1st Sess.

[13] 103 CONG. REC. 13648, 85th Cong. 1st. Sess.

§ 15. Voting on the Motion

Rule XXVII clause 1[14] requires that a motion to suspend the rules be adopted by a "vote of two-thirds of the Members voting, a quorum being present."[15] As indicated in § 12, supra, the motion must first be seconded (if a second is demanded and not considered as ordered) by a majority vote before the motion may be considered.

The Speaker has voted on a motion to suspend the rules, to ensure the adoption of the motion.[16] Although a motion to suspend the rules may be used to pass a bill with amendments, or to pass a measure which would ordinarily be divisible for a separate vote, a separate vote is not in order on a motion to suspend the rules, and the motion as offered must be voted on in its entirety.[17]

If a motion to suspend the rules and pass a proposition is rejected, the same or a similar proposition may be brought up under suspension of the rules, or pursuant to a special order from the Committee on Rules.[18]

Requirement of Two-thirds for Adoption

§ 15.1 A two-thirds vote is required for suspension of the rules (Rule XXVII clause 1), and unanimous

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[14] *House Rules and Manual* § 902 (1979).

Clause 3(b) of Rule XXVII was added on Apr. 9, 1974 (H. Res. 998, 93d Cong. 2d Sess.) to authorize the Speaker to postpone, until the conclusion of debate on all motions to suspend the rules on one legislative day, votes on such motions on which recorded votes or the yeas and nays have been ordered, or the vote objected to under Rule XV clause 4; and to reduce, after the first postponed vote, to five minutes the time for voting (by electronic device) on each other postponed vote on that day. In the 97th Congress, references in Rule XXVII clause 3 to postponement of votes on suspensions were deleted and were transferred to Rule I clause 5(b)(1) to be consolidated with all authorities of the Speaker on postponing rollcall votes for up to two legislative days.

[15] Two-thirds of those Members present and voting is construed as two-thirds of Members present and voting for or against the motion (votes of "present" are discounted).

That requirement is identical to the requirement for adopting a proposed amendment to the Constitution under article V of the U.S. Constitution (see *House Rules and Manual* § 190 [1979]) and thus such a proposed amendment may be adopted under a motion to suspend the rules (see § 15.2, infra).

[16] See §§ 15.3, 15.4, infra.

[17] See §§ 15.5, 15.6, infra.

[18] See §§ 15.7, 15.8, infra.

consent for the consideration of a bill under suspension does not waive the two-thirds vote requirement for the passage of the bill.

On June 27, 1972,(19) the Speaker pro tempore stated, in response to a parliamentary inquiry, that a unanimous-consent order making in order a motion to suspend the rules on a day other than a regular suspension day, would not alter the requirement of a two-thirds vote for the adoption of such a motion:

> MR. [CARL D.] PERKINS [of Kentucky]: Mr. Speaker, I ask unanimous consent that after all other legislative business on Thursday it may be in order to call up for consideration the bill H.R. 14896, the school lunch bill, under suspension of the rules.
>
> THE SPEAKER:(20) Is there objection to the request of the gentleman from Kentucky?
>
> MR. [DURWARD G.] HALL [of Missouri]: . . . Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE:(1) The gentleman will state it.
>
> MR. HALL: Would the Chair confirm that if the unanimous-consent request is granted that the rules for suspension would be in effect and a two-thirds vote would be required to suspend the rules and pass the bill?
>
> THE SPEAKER PRO TEMPORE: Under the gentleman's unanimous-consent request it would require a two-thirds vote to suspend the rules and pass the bill.
>
> MR. HALL: I thank the Chair, I withdraw my reservation.
>
> THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Kentucky?
>
> There was no objection.

Passage of Constitutional Amendments

§ 15.2 A proposed amendment to the Constitution may be passed by the House under a motion to suspend the rules, since the motion requires a two-thirds vote for adoption.

On Dec. 5, 1932,(2) Mr. Henry T. Rainey, of Illinois, moved to suspend the rules and pass House Joint Resolution 480, proposing an amendment to the Constitution of the United States, repealing the 18th amendment to the Constitution. Two-thirds failed to vote in favor thereof and the motion was rejected.

On Aug. 27, 1962, Speaker John W. McCormack, of Massachusetts, recognized Mr. Emanuel Celler, of New York, to move to suspend the rules and pass Senate Joint Resolu-

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19. 118 CONG. REC. 22562, 22563, 92d Cong. 2d Sess.
20. Carl Albert (Okla.).
1. Henry B. Gonzalez (Tex.).
2. 76 CONG. REC. 7-13, 72d Cong. 2d Sess.

tion 29, proposing an amendment to the Constitution of the United States to abolish nonpayment of a poll tax as a bar to voting in federal elections; the House had previously agreed to a request authorizing the Speaker to recognize for motions to suspend the rules on the fourth Monday of the month. Before Mr. Celler was recognized, a demand was made that the Journal be read in full, and three quorum calls and two record votes on dispensing with further proceedings under the calls interrupted such reading.

The House adopted the motion and the joint resolution was passed. The joint resolution was, pursuant to title I, United States Code, section 106b, presented to the Administrator of General Services for ratification by the states, and was ratified as the 24th amendment to the Constitution.(3)

Parliamentarian's Note: The two-thirds vote requirement for both a proposed amendment to the Constitution and for a motion to suspend the rules is two-thirds of those Members present and voting in the affirmative or negative.

Speaker's Vote

§ 15.3 The Speaker directed the Clerk to call his name on a roll call vote, and his vote enabled a bill to receive the two-thirds necessary for passage under suspension of the rules.

On Oct. 2, 1972,(4) Speaker Carl Albert, of Oklahoma, voted on a motion to suspend the rules where the motion would not have passed without his vote:

> THE SPEAKER: The question is on the motion offered by the gentleman from West Virginia that the House suspend the rules and pass the bill H.R. 15859, as amended.
>
> The question was taken.
>
> MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.
>
> THE SPEAKER: Evidently a quorum is not present.
>
> The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

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3. 108 CONG. REC. 17654–70, 87th Cong. 2d Sess.

See also 96 CONG. REC. 10427, 10428, 81st Cong. 2d Sess., July 17, 1950, where a motion to suspend the rules and pass S.J. Res. 2, proposing an amendment to the Constitution providing for a method of electing the President and Vice President, was rejected by the House.

4. 118 CONG. REC. 33219, 92d Cong. 2d Sess.

Without the Speaker's vote, the tally was 243 yeas, 122 nays; see H. Jour. 1139, 92d Cong. 2d Sess.

The question was taken; and there were—yeas 244, nays 122, not voting 65, as follows: . . .

The Speaker: The Clerk will call my name.

The Clerk called the name of Mr. Albert, and he answered "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

§ 15.4 The Speaker voted on a motion to suspend the rules and pass a bill where the vote, as reported to him by the tally clerk, was very close, and subject to reversal if an error appeared in rechecking the tally.

On Nov. 6, 1967,(5) Speaker John W. McCormack, of Massachusetts, voted on a motion to suspend the rules:

The Speaker: The question is on the motion of the gentleman from West Virginia that the House suspend the rules and pass the Senate Joint Resolution 33, as amended.

The question was taken.

Mr. [Durward G.] Hall [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker: Evidently a quorum is not present.

The Doorkeeper will close the doors. The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 206, nays 102, not voting 124, as follows: . . .

The Speaker: The Clerk will call my name.

The Clerk called the name of Mr. McCormack and he answered "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate joint resolution, as amended, was passed.

Parliamentarian's Note: At the conclusion of the roll call, the tally clerk advised that the vote as recorded was 204 yeas and 102 nays but that there was a possible error in that count. To obviate any such error and assure that the motion pass by a two-thirds vote, the Speaker voted in the affirmative and announced the vote as 205 yeas, 102 nays. Upon reviewing the tally, an error was found and the vote, as corrected, stood at 204 yeas and 102 nays, which was sufficient for the two-thirds vote. Two Members subsequently corrected the vote to show that they were present, voting in the affirmative, but were not recorded. Thus the final tally, as carried in the Record, showed 206 yeas, 102 nays.

Separate Vote Not in Order

§ 15.5 During consideration of a motion to suspend the rules and pass a bill, it is not in order

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5. 113 Cong. Rec. 31287, 90th Cong. 1st Sess.

to demand a separate vote on amendments submitted with the text of the bill when sent to the desk.

On Oct. 7, 1968,(6) Speaker pro tempore Carl Albert, of Oklahoma, stated that a separate vote could not be demanded on a motion to suspend the rules and pass a bill with amendments:

MR. [GEORGE A.] GOODLING [of Pennsylvania]: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. GOODLING: Under a suspension of the rules procedure, are amendments in order?

THE SPEAKER PRO TEMPORE: No; amendments can be included in the motion, but other amendments are not in order.

MR. GOODLING: If amendments are presented, can a rollcall be had on the amendments?

THE SPEAKER PRO TEMPORE: No rollcall can be had on the amendments; only on those amendments which are submitted with the bill and which are included in the motion.

§ 15.6 It is not in order to demand a division of the question on a proposition considered under a motion to suspend the rules.

On Sept. 20, 1943,(7) Speaker Sam Rayburn, of Texas, stated, in response to a parliamentary inquiry, that a division of the question could not be demanded on a motion to suspend the rules (and pass a resolution providing an order of business):

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I move to suspend the rules and pass the resolution (H. Res. 302), which I send to the Clerk's desk.

The Clerk read as follows:

> *Resolved*, That the time for debate on a motion to suspend the rules and pass House Concurrent Resolution 25 shall be extended to 4 hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and said motion to suspend the rules shall be the continuing order of business of the House until finally disposed of. . . .

THE SPEAKER: The time of the gentleman from New Jersey has expired.

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DIRKSEN: I believe there is some confusion as to the exact terminology of the resolution offered by the gentleman from Massachusetts, and I ask unanimous consent that the resolution may be again read.

THE SPEAKER: Without objection, the Clerk will again read the resolution.

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6. 114 CONG. REC. 29800, 90th Cong. 2d Sess.

7. 89 CONG. REC. 7646, 7655, 78th Cong. 1st Sess.

There was no objection.

The Clerk again read the resolution.

Mr. Dirksen: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Dirksen: The resolution contains two substantive proposals. Is it by reason of this fact divisible?

The Speaker: Not under a suspension of the rules, because the first proposal suspends all the rules.

Effect of Rejection

§ 15.7 Rejection of a motion to suspend the rules and agree to a resolution does not preclude the Speaker from exercising his discretionary authority to recognize a Member to offer a similar resolution under suspension of the rules.

On Dec. 21, 1973,(8) Speaker Carl Albert, of Oklahoma, overruled a point of order against recognition for a motion to suspend the rules:

Mr. [Harley O.] Staggers [of West Virginia]: Mr. Speaker, I move to suspend the rules and agree to the House Resolution (H. Res. 760) to take from the Speaker's table the Senate bill S. 921, to amend the Wild and Scenic Rivers Act, with a Senate amendment to the House amendment thereto and agree to the Senate amendment to the House amendment with an amendment.

The Clerk read as follows:

H. Res. 760

Resolved, That immediately upon the adoption of this resolution the bill S. 921, with the Senate amendment to the House amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the House amendment be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the text of the bill H.R. 12129.

A point of order was made as follows:

Mr. [Robert E.] Bauman [of Maryland]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Bauman: Mr. Speaker, I make a point of order against this resolution because it, in effect, does nothing more than call up a matter that has already been voted on within the last half hour by this House.

Anyone who says it is not to the contrary has no authority, because no one has read it and we do not know the substance.

The Speaker: The Chair has read the resolutions, they have been read to the House, and the Chair has authority to recognize for motions to suspend the rules.

There are substantial differences, and the Chair has recognized the gentleman from West Virginia.

The House rejected the motion.

Parliamentarian's Note: The House had earlier rejected a motion

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8. 119 Cong. Rec. 43271, 93d Cong. 1st Sess.

to suspend the rules (offered by Mr. Staggers) and agree to a resolution to take the same bill with the Senate amendment from the table and agree to the Senate amendments with an amendment. The second motion offered by Mr. Staggers proposed a different amendment (text of another House bill) to the Senate amendment.

Since the rejection of a motion to suspend the rules does not prejudice its being offered again, no motion to reconsider is in order on a negative vote on a motion to suspend the rules (see 5 Hinds' Precedents §§ 5645, 5646; 8 Cannon's Precedents § 2781).

§ 15.8 The Committee on Rules may report a special rule to make in order the consideration of a joint resolution that had previously been defeated on a motion to suspend the rules.

On Aug. 24, 1935,[9] Speaker Joseph W. Byrns, of Tennessee, stated, in response to a parliamentary inquiry, that the rejection of a motion to suspend the rules and pass a bill did not preclude bringing up the same bill pursuant to a special order from the Committee on Rules:

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, by direction of the Committee on Rules I present a privileged report from that committee and ask for its immediate consideration.

The Clerk read as follows:

HOUSE RESOLUTION 372

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of (S. J. Res. 175), a joint resolution to extend the time within which contracts may be modified or canceled under the provisions of section 5 of the Independent Offices Appropriation Act 1935, and all points of order against said joint resolution are hereby waived.

MR. O'CONNOR: Mr. Speaker, this is a matter which was considered today under suspension of the rules but failed of passage. It is a matter about which there was some confusion. It is a very simple matter and has nothing to do with ship subsidies. It merely extends the time within which the President can determine whether or not to cancel or modify the contracts. The President has before him this important situation: many of these contracts will expire between October of this year and January of next year. I am authorized to say that the President feels he needs this authority.

Mr. Speaker, I move the previous question on the resolution.

MR. [MAURY] MAVERICK [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MAVERICK: After a bill has been passed on, can it be brought up again the same day? What about the Puerto Rico bill, which failed? If we can again bring up the bill made in order by this resolution, we can do it with the Puerto Rico bill, or with any other bill that has been defeated once during the day. This bill was defeated a few hours ago.

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[9] 79 CONG. REC. 14652, 74th Cong. 1st Sess.

The Speaker: The Chair will answer the gentleman's parliamentary inquiry. This is an effort on the part of the gentleman from New York, Chairman of the Rules Committee, to bring this bill up under a special rule.

The question is up to the House as to whether or not that can be done.

Mr. Maverick: I did not hear the Chair.

The Speaker: This is a special rule which is under consideration and is in order.

Mr. [William D.] McFarlane [of Texas]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. McFarlane: Is it in order for the Chairman of the Rules Committee to bring in a rule on a bill which we defeated this afternoon and then move the previous question before the opponents have an opportunity to be heard?

The Speaker: It is, under the rules of the House.

Mr. O'Connor: Mr. Speaker, all the opponents were heard today.

The Speaker: It is a question for the House itself to determine.

C. SPECIAL RULES OR ORDERS

§16. Authority of Committee on Rules; Seeking Special Orders

Under Rule XI clause 17,(10) the Committee on Rules has jurisdiction over the rules, joint rules, and order of business of the House.(11) And under Rule XI clause 23, it is always in order to call up for

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10. *House Rules and Manual* § 715 (1973) [Rule X clause 1(q), *House Rules and Manual* § 686(a) (1979)].

11. The jurisdiction defined in the rule was made effective Jan. 2, 1947, as part of the Legislative Reorganization Act of 1946. The jurisdiction was further defined in the 90th Congress when jurisdiction over rules relating to official conduct and financial disclosure was transferred to the Committee on Standards of Official Conduct (H. Res. 1099, 90th Cong.).

Prior to the 1946 act, Rule XI clause 35 provided that "all proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules." And Rule XI clause 45 conferred privilege on reports from the Committee on Rules.

For a short history of the Committee on Rules, including its procedures, composition and authority in relation to the current and past rules of the House, see 115 Cong. Rec. 9498–501, 91st Cong. 1st Sess., Apr. 17, 1969 (insertion in the consideration a report from the Committee on Rules on such matters,(12) which report may be adopted in the House by a majority vote. If the report is called up the same day reported, it may not be considered unless so determined by a two-thirds vote.(13)

The Committee on Rules may waive any rule which impedes the consideration of a bill or amendment thereto, and points of order do not lie against the consideration of such rules, as it is for the House to determine, by a majority vote on the adoption of the resolution, whether certain rules should be waived.(14) Thus an objection that a report from the Committee on Rules changes the rules of the House and thus should require a two-thirds vote rather than a majority vote has no merit.(15)

A major portion of the legislation considered in the House is considered pursuant to resolutions, also called "rules" and "special orders," reported by the Committee on Rules. As most bills reported by the other committees of the House are not privileged under the rules for immediate consideration, the special order from the Committee on Rules gives privilege to the bill sought to be considered in the House.(16)

Under Rule XIII clause 1,(17) most bills require consideration in the Committee of the Whole; therefore the special order usually provides that it shall be in order, upon adoption of the resolution, to move

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Record by Richard Bolling [Mo.], a member of the Committee on Rules, of a short history of that committee prepared by Walter Kravitz of the Legislative Reference Service of the Library of Congress).

See also Ch. 17, supra, for further information on the committee.

12. *House Rules and Manual* § 729 (1973) [Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].

13. For the privilege of reports from the Committee on Rules, see § 17, infra. For consideration of and voting on such reports, see § 18, infra.

14. For the authority of the Committee on Rules as to waiving rules and points of order, see §§ 16.9–16.14, infra. Rules may also be waived by unanimous-consent requests and motions to suspend the rules; for discussion of motions to suspend the rules and their effect, see § 9, supra.

The power of the House to change or to waive its rules is derived from U.S. Const. art. I, § 5, clause 2, which authorizes each House of Congress to determine the rules of its proceedings.

15. See § 16.9, infra.

16. For a statement by Speaker Nicholas Longworth (Ohio) as to the privilege conferred on a bill by the adoption of a special order, see § 16.6, infra.

17. *House Rules and Manual* § 742 (1979).

that the House resolve itself into the Committee of the Whole for the consideration of the designated bill.[18] But if the resolution is for the consideration of a bill not reported from committee, the resolution may provide that the House shall immediately resolve itself into the Committee of the Whole for the consideration of the bill (since the committee of jurisdiction has in effect been discharged from the further consideration of the bill). The resolution usually provides for a certain period of general debate (one hour or more), equally divided and controlled by the chairman and ranking minority member of the reporting committee, and for reading the bill for amendment under the five-minute rule. A "closed" rule restricts or prohibits the offering of amendments; an "open" rule allows the offering of germane amendments from the floor. Whether a rule is characterized as a "modified open" or a "modified closed" rule is a matter of degree, the former describing rules permitting any germane amendment with designated exceptions, and the latter prohibiting the offering of amendments, with designated exceptions.

The resolution will generally provide that at the conclusion of the reading of the bill for amendment, the bill shall be reported back to the House, where the previous question shall be considered as ordered on the bill to passage without intervening motion except the motion to recommit. The resolution may provide that a separate vote may be demanded on any amendments adopted in the Committee of the Whole to a committee amendment in the nature of a substitute, as otherwise only amendments in their perfected form are reported from Committee of the Whole and voted on in the House. Frequently, the resolution provides that the committee amendment in the nature of a substitute printed in the reported version of the bill may be read as an original bill for the purpose of amendment.

Due to the numerous possible variations in the form of special orders, only a representative sample is included in this and the following sections.

The grant of jurisdiction to the Committee on Rules is necessarily broad, in order that the rules may be temporarily waived in order to consider and pass particular pieces of legislation. The only restrictions on the power of the Committee on Rules in reporting rules, under Rule XI clause 23,[19] are as follows: "The Committee on Rules shall not report any rule or order which shall provide that business under clause 7 of Rule XXIV [the Calendar Wednesday rule] shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of Rule XVI."[20] The committee's authority extends to reporting resolutions making in order the consideration of bills not yet reported from standing or conference committees,[1] and to reporting resolutions providing certain procedures or waiving certain points of order during the further consideration of bills already under consideration in the House or Committee of the Whole.[2]

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[18] Special orders may also provide for the consideration of bills or resolutions in the House, or in the House as in the Committee of the Whole (see for example §§ 20.16 and 20.17, infra).

Rules or special orders are requested from the Committee on Rules, usually, by the committee which has reported, or which has jurisdiction over, the measure to be considered, and the Committee on Rules may hold hearings and meetings on requested orders regardless of whether the House is in session and reading for amendment under the five-minute rule.[3]

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[19] *House Rules and Manual* § 729 (1973) [Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].

[20] Calendar Wednesday is a little-used procedure, and is customarily dispensed with by unanimous consent rather than by the two-thirds vote on a motion (see § 4, supra).

Although the Committee on Rules may not prevent a motion to recommit (see § 16.19, infra), recommittal is not in order when a bill is being considered under a motion to suspend the rules.

Thus the Committee on Rules may report a resolution making in order motions to suspend the rules on days not specified in the suspension rule, which in effect precludes motions to recommit on bills passed under that procedure (see 8 Cannon's Precedents § 2267).

[1] See §§ 16.15-16.18, infra. A special order from the committee may even provide for the consideration of a bill which has not yet been introduced. 8 Cannon's Precedents § 3388.

[2] See §§ 16.26, 16.27, infra; 8 Cannon's Precedents § 2258.

[3] See §§ 16.20-16.22, infra, for requests for special orders from the Committee on Rules. See §§ 16.23-16.25, infra, for meetings and hearings by the committee, including the provisions of the House rules and the rules of the committee itself in the 93d Congress.

Power and Function of Rules Committee Generally

§ 16.1 During consideration of a resolution allowing legislation to be included in an appropriation bill, the functions of the Committee on Rules were discussed.

On Jan. 23, 1932, during consideration of a special order from the Committee on Rules making in order on a general appropriation bill certain legislative language, Mr. John J. O'Connor, of New York, of the Committee on Rules discussed that committee's functions:

> MR. O'CONNOR: Mr. Speaker, this resolution was introduced before the Committee on Rules by the gentleman from Tennessee [Mr. Byrns], chairman of the Committee on Appropriations at the request of his committee. We were informed that every member of the Appropriations—Republican and Democratic members—favored it except as to one gentleman objecting in one small particular. As for the necessity for the resolution it was stated that there was a probability that a point of order might be made against these provisions of sections 2 and 3 now carried in this agricultural appropriation bill. It was therefore thought best that the matter be laid before the House so that the membership of the House could determine whether the provisions of these two sections now in the bill should remain in the bill.
>
> It has always been my understanding that the Rules Committee is not a committee that passes on the merits of measures. As has often been said before, that committee merely determines whether or not a measure is in accord with the program of the House and in answer to a reasonable demand from the membership of the House, that they have an opportunity to pass their judgment upon it. It is in that customary spirit that the Rules Committee approached this resolution without going into its merits to any extent. The entire membership of the Appropriations Committee without regard to politics wanted to give the House an opportunity to pass upon it. In such a situation I believe it to be the duty of the Rules Committee to lay the matter before the House for such action as it shall see fit to take. That we have done in this case.(4)

§ 16.2 The Chairman of the Committee on Rules discussed that committee's functions when calling up the first major special order of the 73d Congress.

On Mar. 21, 1933, when William B. Bankhead, of Alabama, the Chairman of the Committee on Rules, called up by direction of that committee a special order providing for the consideration of a bill, he delivered some remarks on the functions of the committee:

> MR. BANKHEAD: Mr. Speaker, for the benefit of a number of the new Mem-

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4. 75 CONG. REC. 2568, 72d Cong. 1st Sess.

bers of the House, it will be noticed that this is the first time since the convening of the special session of Congress that the consideration of a bill of major importance has been brought forward under the provisions of the authority and jurisdiction of the Committee on Rules.

So this resolution provides for the consideration of this measure as it is presented. No doubt the distinguished minority leader, as already indicated by some interviews in the newspapers, will undertake to say that this is a very drastic rule. I admit it. The minority will also say that it is a gag rule. In the common acceptation of this term I admit it; but I want to say that many years ago when, as a somewhat green Member of the House of Representatives, I was assigned to service on the Committee on Rules, under Republican administrations for many years, all that I absorbed or learned about so-called gag rules I learned while sitting at the feet of the distinguished gentleman from New York, Mr. Snell, and his associates.

I may say to the new Members of this Congress, also, and we might as well be candid and frank about the function and jurisdiction of the Committee on Rules, the gentleman from New York and his associates well know what these functions are. The Committee on Rules is the political and policy vehicle of the House of Representatives to effectuate the party program and the party policy. This is what it is, nothing more and nothing less, and although, individually, I express the opinion here and now that we regret the necessity sometimes of bringing resolutions upon the floor of this House that will prevent the ordinary freedom of action and freedom of offering amendments, there come times when, under our system of party government, the Committee on Rules, acting as I have suggested, is requested, as we have been requested in this instance, by the leadership of the House, to bring in the rule that we now have under consideration, for reasons which they thought were wise and appropriate under the circumstances.

So if you adopt this rule for the consideration of this bill, it provides for four hours of general debate which will give all gentlemen who desire to do so a fairly reasonable opportunity to express their views upon it, and at the end of that time we are going to have a vote on this bill, if the rule is adopted, and we are going to vote the bill as it is up or down.(5)

§ 16.3 The failure of a motion to suspend the rules and pass a bill does not prejudice the status of a bill and the Committee on Rules may subsequently bring in a special rule providing for its consideration and requiring only a majority vote for its passage.

On June 5, 1933,(6) Mr. John E. Rankin, of Mississippi, moved to suspend the rules and pass a bill

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5. 77 Cong. Rec. 665, 666, 73d Cong. 1st Sess.

6. 77 Cong. Rec. 5015, 5022, 5023, 73d Cong. 1st Sess.

relating to the appointment of the Governor of Hawaii; the motion failed to obtain two-thirds (yeas 222, nays 114). Speaker Henry T. Rainey, of Illinois, responded to a parliamentary inquiry:

Mr. [Thomas L.] Blanton [of Texas]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Blanton: If that motion [to lay on the table the motion to reconsider] is carried, then the Rules Committee nevertheless will be able to bring in a rule tomorrow to take that bill up when it can be passed by a majority vote?

The Speaker: The Rules Committee can bring in a bill suspending the rules.

Parliamentarian's Note: The motion to reconsider is no longer utilized following a negative vote on a motion to suspend the rules (see § 15.7, supra).

On June 6, the Committee on Rules reported a resolution providing for the consideration of the bill, and the resolution was adopted by the House on June 7.

On Aug. 24, 1935,(7) there was called up by direction of the Committee on Rules a resolution making in order the consideration of a bill which had on that day failed of passage on suspension of the rules. Speaker Joseph W. Byrns, of Tennessee, answered parliamentary inquiries on the power of the Committee on Rules:

Mr. [Maury] Maverick [of Texas]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Maverick: After a bill has been passed on, can it be brought up again the same day? What about the Puerto Rico bill, which failed? If we can again bring up the bill made in order by this resolution, we can do it with the Puerto Rico bill, or with any other bill that has been defeated once during the day. This bill was defeated a few hours ago.

The Speaker: The Chair will answer the gentleman's parliamentary inquiry. This is an effort on the part of the gentleman from New York, Chairman of the Rules Committee, to bring this bill up under a special rule.

The question is up to the House as to whether or not that can be done.

Mr. Maverick: I did not hear the Chair.

The Speaker: This is a special rule which is under consideration and is in order.

Mr. [William D.] McFarlane [of Texas]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. McFarlane: Is it in order for the Chairman of the Rules Committee to bring in a rule on a bill which we defeated this afternoon and then move

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7. 79 Cong. Rec. 14652, 74th Cong. 1st Sess.

the previous question before the opponents have an opportunity to be heard?

The Speaker: It is, under the rules of the House.

Mr. [John J.] O'Connor [of New York]: Mr. Speaker, all the opponents were heard today.

The Speaker: It is a question for the House itself to determine.

Parliamentarian's Note: Jefferson's Manual states [at § 515, *House Rules and Manual* (1979)] that it is not in order to consider a bill the same as one already rejected in the same session; this prohibition may be waived by a resolution reported from the Rules Committee providing for consideration.

§ 16.4 The question whether the House will consider a resolution making in order the consideration of a bill which seeks to amend a nonexisting law is a matter for the House and not the Chair to decide.

On May 13, 1953,[8] Mr. Leo E. Allen, of Illinois, called up, by direction of the Committee on Rules, a resolution providing for the consideration of a bill to amend the "Submerged Lands Act," reported from the Committee on the Judiciary. Speaker Joseph W. Martin, Jr., of Massachusetts, overruled a point of order against the consideration of the resolution:

Mr. [Michael A.] Feighan [of Ohio]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state it.

Mr. Feighan: Mr. Speaker, I make a point of order against the consideration of this rule because it attempts to make in order the consideration of the bill H.R. 5134, which is a bill to amend a nonexisting act.

The Speaker: The Chair will state that the point of order that has been raised by the gentleman from Ohio is not one within the jurisdiction of the Chair, but is a question for the House to decide, whether it wants to consider such legislation.

The Chair overrules the point of order.

§ 16.5 Objection having been made to a unanimous-consent request to take from the Speaker's table a bill with Senate amendments thereto, disagree to the amendments and agree to a conference, the Committee on Rules met immediately and reported out a resolution to accomplish such action; it was agreed by a two-thirds vote to consider the resolution and the resolution was adopted that day.

On Aug. 9, 1949, Mr. J. Vaughan Gary, of Virginia, asked unanimous consent to take from the Speaker's

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8. 99 Cong. Rec. 4877, 83d Cong. 1st Sess.

table the bill H.R. 4830 (foreign aid appropriations) with Senate amendments thereto, disagree to the amendments, and agree to the conference asked by the Senate. Mr. Vito Marcantonio, of New York, having objected to the request, the Committee on Rules held a meeting, reported out a resolution making in order the action requested by Mr. Gary, and the House agreed to consider the resolution by a two-thirds vote and adopted the resolution.(9)

Parliamentarian's Note: This function of the Committee on Rules has been exercised less frequently since adoption (on Jan. 4, 1965, H. Res. 8, 89th Cong. 1st Sess.) of that portion of clause 1 Rule XX permitting a motion to go to conference when authorized by the committee with legislative jurisdiction.

§ 16.6 The effect of a special rule providing for the consideration of a bill is to give to the bill the privileged status for consideration that a revenue or appropriation bill has under Rule XVI clause 9.

On June 28, 1930,(10) Mr. Fred S. Purnell, of Indiana, called up by direction of the Committee on Rules, House Resolution 264, providing that upon the adoption of the resolution it be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a particular bill, and providing for that bill's consideration. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution and characterized the effect of such a resolution from the Committee on Rules:

> MR. [CARL R.] CHINDBLOM [of Illinois]: Mr. Speaker, if pressed, I will make the point of order that the resolution from the Committee on Rules is not in order because it relates to a bill which is not now upon the calendar of the House under the conditions and in the status which existed when this resolution was adopted by the Committee on Rules.
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> The calendar shows that H.R. 12549 was reported to the House on June 24, 1930, Report No. 2016, and was placed on the House Calendar. The resolution or rule now called up for consideration by the Committee on Rules was presented to the House June 20, 1930, and therefore before the bill on the calendar had been reported to the House.
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> Of course, we all know that this bill is now upon the calendar for the third time. A previous rule was adopted for its consideration on June 12, 1930, and at that time a point of order was made,

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9. 95 CONG. REC. 11139–46, 81st Cong. 1st Sess.

10. 72 CONG. REC. 11994, 11995, 71st Cong. 2d Sess.

when it was sought to take up the bill in Committee of the Whole House on the state of the Union, on the ground that the report did not comply with the Ramseyer rule. Subsequently, after the present rule was presented in the House on June 20, 1930, I think it is well known that another irregularity in the adoption of the report became known, so on June 23, if my recollection is correct, the chairman of the Committee on Patents obtained unanimous consent to withdraw the bill and the report, and the bill was thereupon again reported the following day and placed upon the House Calendar.

The situation is novel and arises, so far as I can learn, for the first time, and it raises the question whether the Committee on Rules has authority in advance of the report of a bill, and in advance of the placing of a bill on any calendar of the House, to bring in a rule for the consideration of the bill under the general rules of the House, as this resolution does, because the rule merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill. As I construe the rule, it does not suspend any of the rules of the House in reference to the consideration of legislation. It does not suspend the rule which requires bills to be upon the calendar of the House before they can have consideration. It merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

Mr. [John Q.] Tilson [of Connecticut]: Mr. Speaker, will the gentleman yield?

Mr. Chindblom: Yes.

Mr. Tilson: Does not the effect of this resolution date from the time it is adopted by the House, and not from the time it was reported by the Committee on Rules? And if we to-day in the House adopt the rule, is not the effect of the rule to be applied as of to-day, and not three or four days ago, when the rule was reported?

The Speaker: The Chair is prepared to rule. It is not necessary to pass upon the question of whether the original rule for the consideration of this bill is still alive or not. The Chair, when the matter was originally submitted to him, informally expressed a grave doubt as to whether it would be considered alive. But this rule is an entirely different rule. It appears now for the first time for consideration. The Chair is aware that this bill has had a rather stormy passage. It has been twice rereferred to the committee, but as the bill now appears, so far as the Chair is advised, it is properly on the calendar as of June 24, 1930, and this special rule is properly reported to consider that bill. The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:

> At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the

Union for the purpose of considering bills raising revenue, or general appropriation bills.

Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

Rules Committee Jurisdiction Over Order of Business

§ 16.7 The Speaker stated in overruling a point of order against a special order from the Committee on Rules that the committee could report a resolution to change the rules of the House on any matter except that which is prohibited by the Constitution.

On Sept. 3, 1940,[11] there was pending before the House a special order from the Committee on Rules providing for the consideration of, and providing for two days of general debate on, a bill. Speaker pro tempore Jere Cooper, of Tennessee, overruled a point of order against the resolution:

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, I make the point of order that the resolution is contrary to the unwritten law of the House. It has been the universal practice, custom, and tradition of the House to have debate fixed by hours. This resolution fixes general debate by days. This is entirely meaningless, because a day may be terminated by a motion that the Committee rise or by adjournment, and for that reason I press my point of order.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. The gentleman from New York makes the point of order that the resolution is contrary to the unwritten rules of the House in that general debate is fixed by days instead of hours.

In the first place, the point of order comes too late.

In the second place, this is a resolution reported by the Committee on Rules to change the rules of the House, which is permissible on anything except that which is prohibited by the Constitution.

The point of order is overruled.

Parliamentarian's Note: Rule XI clause 17 gives jurisdiction to the Committee on Rules over the rules, joint rules, and order of business of the House. But under Rule XI clause 23, the Committee on Rules may not report any order providing that business under Rule XXIV clause 7 (Calendar Wednesday) shall be dispensed with by less than a two-thirds vote, or any order operating to prevent the motion to recommit being made pursuant to Rule XVI clause 4.(12)

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[11] 86 CONG. REC. 11359, 11360, 76th Cong. 3d Sess.

§ 16.8 To a bill amending the rules of the House [Legislative Reorganization Act of 1970] being considered pursuant to a resolution prohibiting amendments to the bill "which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI," an amendment to clause 23 [clause 4(b), House Rules and Manual (1979)] of Rule XI proscribing the power of the Committee on Rules to report special orders which would limit the reading of a measure for amendment or the offering of amendments thereto, was ruled out of order as an attempt to change the jurisdiction of the Committee on Rules.

On July 29, 1970, the Legislative Reorganization Act of 1970 (H.R. 17654) was being read for amendment in the Committee of the Whole pursuant to a special order (H. Res. 1093) prohibiting the offering of amendments which would change the jurisdiction of House committees. Chairman William H. Natcher, of Kentucky, sustained a point of order against an amendment (and discussed the jurisdiction of the Committee on Rules):(13)

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Jacobs: On page 39, after line 4, add the following new section: "Sec. 123(a) Clause 23 of Rule XI of the Rules of the *House of Representatives* is amended by adding at the end thereof the following: 'In addition, the Committee on Rules shall not report any rule or order for the consideration of any legislative measure which limits, restricts, or eliminates the actual reading of that measure for amendment or the offering of any amendment to that measure.'." . . .

MR. [H. ALLEN] SMITH of California: Mr. Chairman, I raise the point of order that this very definitely limits the jurisdiction of the Rules Committee and would prohibit us from issuing a closed rule and other types of rules. The rule under which this measure was considered strictly prohibits the changing of any jurisdiction of any committee.

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12. Rule XI clause 17, *House Rules and Manual* § 715 (1973) [Rule X clause 1(q), *House Rules and Manual* § 686(a) (1979)]. Rule XI clause 23, *House Rules and Manual* § 729 (1973) [Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)]. Rule XXIV clause 7, *House Rules and Manual* § 897 (1979). Rule XVI clause 4, *House Rules and Manual* § 782 (1979).

13. 116 CONG. REC. 26414, 91st Cong. 2d Sess.

The Chairman: Does the gentleman from Indiana desire to be heard on the point of order?

Mr. Jacobs: Mr. Chairman, as I understand the term "jurisdiction," it means the territory or subject matter over which legal power is exercisable, not the rules by which such power proceeds.

The Chairman: The Chair is prepared to rule.

The Chair would like to point out to the gentleman from Indiana that under House Resolution 1093 we have the following language, beginning in line 11:

> No amendments to the bill shall be in order which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI.

Therefore, the Chair sustains the point of order.

Mr. Jacobs: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Jacobs: Mr. Chairman, my parliamentary inquiry is for some enlightenment about the word "jurisdiction" itself, the definition of the word "jurisdiction"? Does it refer to subject matter and territory, or relate to the manner in which the Committee on Rules can make a report within its jurisdiction?

The Chairman: The Chair would like to point out to the gentleman from Indiana that under the amendment offered by the gentleman from Indiana there is the following language:

> The Committee on Rules shall not report any rule or order for the consideration of any legislative measure which limits, restricts, or eliminates the actual reading of that measure for amendment or the offering of any amendment to that measure.

Therefore the amendment offered by the gentleman from Indiana restricts the jurisdictional powers of the Committee on Rules. For that reason the point of order must be sustained.

Waiver of Rules by Special Orders

§ 16.9 Rules of the House may be changed or temporarily suspended by a majority vote by the adoption of a resolution from the Committee on Rules providing for such a change, such as waiving points of order in the consideration of a bill.

On June 14, 1930,[14] Mr. Bertrand H. Snell, of New York, called up by direction of the Committee on Rules House Resolution 253, providing for the consideration of two conference reports on the same bill together as one, for the purposes of debate and voting. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution, where the point of order was based on the fact that the resolution waived all points of order in the consideration of the reports:

Mr. [John J.] O'Connor [of New York]: Mr. Speaker, I desire to make a point of order against the resolution.

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[14] 72 Cong. Rec. 10694, 71st Cong. 2d Sess.

The Speaker: The gentleman will state it.

Mr. O'Connor of New York: The resolution provides that "in the consideration of the reports all points of order shall be waived." Points of order are based on the rules of the House, either the few published rules or the precedents and rulings by presiding officers. This resolution proposes to do what should be done by a motion to suspend the rules. The difficulty is, however, that to suspend the rules a two-thirds vote is required. This is not a resolution brought in for the purpose of obtaining by a majority vote the direct repeal of all of the rules of the House but is intended to serve a certain specific purpose in reference to only one measure of the House. For instance, the rule relating to Calendar Wednesday requires that to set that aside there must be a two-thirds vote. The rule prohibiting legislation on an appropriation bill could not be set aside, in my opinion, by this method, and that applies to other rules of the House. Points of order being rules of the House, in my opinion this resolution violates the rules of the House, in that it sets aside all rules relating to points of order.

Mr. Snell: Mr. Speaker, I should be very glad to argue the point of order with the gentleman if I knew what his point of order is, but from anything my friend has said so far, I am unable to identify it.

The Speaker: The Chair will state it is not necessary. This is a very ordinary proceeding. It has been done hundreds of times to the knowledge of the Chair. The Chair overrules the point of order.

On Oct. 27, 1971,(15) the House had under consideration House Resolution 661, reported from the Committee on Rules and providing for consideration of H.R. 7248, to amend and extend the Higher Education Act and for other purposes. The resolution waived points of order against the committee amendment in the nature of a substitute for failure to comply with Rule XVI clause 7 (germaneness) and Rule XXI clause 4 [clause 5 in the 96th Congress] (appropriations in a legislative bill) and also provided that points of order could be raised against portions of the bill whose subject matter was properly within another committee's jurisdiction rather than within the jurisdiction of the Committee on Education and Labor, which had reported the bill. (Under normal procedure, a point of order based on committee jurisdiction cannot be raised after a committee to which has been referred a bill has reported it, the proper remedy being a motion to correct reference.)

In response to a parliamentary inquiry, Speaker Carl Albert, of

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15. 117 Cong. Rec. 37768, 92d Cong. 1st Sess.

Oklahoma, indicated that a majority vote, and not a two-thirds vote, would be required to adopt the resolution:

MR. [SPARK M.] MATSUNAGA [of Hawaii]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. MATSUNAGA: Mr. Speaker, at this point is it proper for the Speaker to determine whether a two-thirds vote would be required for the passage of this resolution, House Resolution 661, or merely a majority?

THE SPEAKER: The resolution from the Committee on Rules makes in order the consideration of the bill (H.R. 7248) and a majority vote is required for that purpose.

MR. MATSUNAGA: Even with the reference to the last section, Mr. Speaker, relating to the raising of a point of order on a bill which is properly reported out by a committee to which the bill was referred, which would in effect contravene an existing rule of the House?

THE SPEAKER: The Committee on Rules proposes to make in order in its resolution (H. Res. 661) the opportunity to raise points of order against the bill on committee jurisdictional grounds, but as is the case with any resolution reported by the Committee on Rules making a bill a special order of business, only a majority vote is required.

MR. MATSUNAGA: I thank the Speaker.

§ 16.10 The Speaker stated in overruling a point of order against a special order from the Committee on Rules that the committee could report a resolution to change the rules of the House on any matter except that which is prohibited by the Constitution.

On Sept. 3, 1940,[16] there was pending before the House a special order from the Committee on Rules providing for the consideration of, and providing for two days of general debate on, a bill. Speaker pro tempore Jere Cooper, of Tennessee, overruled a point of order against the resolution:

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, I make the point of order that the resolution is contrary to the unwritten law of the House. It has been the universal practice, custom, and tradition of the House to have debate fixed by hours. This resolution fixes general debate by days. This is entirely meaningless, because a day may be terminated by a motion that the Committee rise or by adjournment, and for that reason I press my point of order.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. The gentleman from New York makes the point of order that the resolution is contrary

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16. 86 CONG. REC. 11359, 11360, 76th Cong. 3d Sess.

to the unwritten rules of the House in that general debate is fixed by days instead of hours.

In the first place, the point of order comes too late.

In the second place, this is a resolution reported by the Committee on Rules to change the rules of the House, which is permissible on anything except that which is prohibited by the Constitution.

The point of order is overruled.

§ 16.11 It is for the House, and not the Chair, to decide upon the efficacy of adopting a special rule which has the effect of setting aside the standing rules of the House insofar as they impede the consideration of a particular bill; it is not within the province of the Chair to rule out, on a point of order, a resolution reported by the Committee on Rules which is properly before the House and which provides for a special order of business (abrogating the provisions of Rule XX clause 1).

On Nov. 28, 1967,[17] the previous question had been moved on House Resolution 985, called up by direction of the Committee on Rules, providing for concurring in a Senate amendment to a House bill; the resolution was necessary in order to waive the requirement of Rule XX clause 1 [*House Rules and Manual* § 827 (1979)], that Senate amendments be considered in Committee of the Whole if they would be subject to that procedure where originating in the House. Speaker John W. McCormack, of Massachusetts, overruled a point of order against the resolution:

MR. [PAUL C.] JONES of Missouri: Mr. Speaker, I make a point of order against a vote on this resolution, and I make the point of order based entirely on rule XX, which says that any amendment of the Senate to any House bill shall be subject to a point of order that it shall first be considered in the Committee of the Whole House on the State of the Union. If it originated in the House it would be subject to that point of order. I believe there is no question about it being subject to a point of order should it originate here in this House. Until that issue is debated in the Committee of the Whole House on the State of the Union I believe that we are violating rule XX of the House rules.

THE SPEAKER: The Chair will state that the Chair has previously [see footnote 18, infra] ruled on the point of order raised by the gentleman, and the matter is one that is now before the House for the consideration of the House, and the will of the House.

For the reasons heretofore stated and now stated, the Chair overrules the point of order.

MR. JONES of Missouri: Respectfully, Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

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[17] 113 CONG. REC. 34038, 34039, 90th Cong. 1st Sess.

Mr. Jones of Missouri: Mr. Speaker, can the Chair tell me under what authority the House can consider this in the House rather than in the Committee of the Whole House on the State of the Union, in view of rule XX which says it shall first be considered in the Committee of the Whole House on the State of the Union?

The Speaker: The Chair will state that the House can change its rules at any time upon a resolution that is properly before the House reported by the Committee on Rules. The present resolution has been put before the House by the Committee on Rules within the authority of the Committee on Rules, therefore the matter presents itself for the will of the House.

Mr. Jones of Missouri: Mr. Speaker, a further parliamentary inquiry.

The reason I am making this is that I want to get some record on this for this reason: The Chair has said that the Committee on Rules may make a resolution which has not been adopted by the House which summarily amends the Rules of the House which the Members of the House are supposed to rely upon. This rule has not been adopted as yet.

The Speaker: The Chair will state that the Committee on Rules has reported the rule under consideration——

Mr. Jones of Missouri: But it has never been voted upon.

The Speaker: The Chair will state that we are about to approach that matter now.

Mr. Jones of Missouri: And I am challenging that, and the point of order is made that we cannot vote on that because it says in rule XX that this first shall be considered in the Committee of the Whole House on the State of the Union.

The Speaker: The Chair cannot be any more specific or clear in responding to the point of order or in answering the gentleman's parliamentary inquiry.

The matter is properly before the House and it is a matter on which the House may express its will.

The Speaker had previously, when the resolution was called up, overruled the same point of order:(18)

> The Speaker: The Chair is prepared to rule. The Chair has given serious consideration to the point of order raised by the gentleman from Missouri. The Committee on Rules has reported out a special rule. It is within the authority of the rules, and a reporting out by the Rules Committee is consistent with the rules of the House. Therefore, the Chair overrules the point of order.

§ 16.12 The Committee on Rules may report a resolution waiving points of order against provisions in a legislative bill containing appropriations in violation of Rule XXI clause 4 (clause 5 in the 96th Congress) and it is not in order to make such points of order when the resolution and not the bill is before the House.

On Aug. 1, 1939,(19) there was pending before the House a resolu-

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18. *Id.* at pp. 34032, 34033.
19. 84 Cong. Rec. 10710, 10711, 76th Cong. 1st Sess.

tion from the Committee on Rules providing for the consideration of a bill reported from the Committee on Banking and Currency and waiving points of order against the bill (certain sections of the bill contained appropriations in a legislative bill). Speaker William B. Bankhead, of Alabama, overruled a point of order against the resolution where the point of order was directed against those sections of the bill:

Mr. [John] Taber [of New York]: Mr. Speaker, I make a point of order against certain sections of the bill referred to in the rule.

The Speaker: Does the gentleman desire to make a point of order against the resolution?

Mr. Taber: Against certain sections of the bill referred to in the resolution.

The Speaker: The Chair will not entertain that point of order, because the matter now pending before the House is whether or not it should agree to the resolution making a certain bill in order. . . .

The Chair has no disposition to limit the argument of the gentleman from New York [Mr. Taber], but the Chair is very clearly of the opinion that the points of order the gentleman seeks to raise against certain provisions of the bill are not in order at this time. The House is now considering a resolution providing for the consideration of the bill against which the gentleman desires to raise certain points of order. The resolution which is now being considered itself provides, if adopted, that all points of order against the bill are waived. This is no innovation or new matter. Time after time the Committee on Rules has brought to the House resolutions waiving points of order against bills. Under the general rules of the House, the Chair will say to the gentleman, aside from the considerations which the Chair has mentioned, points of order cannot be raised against the bill until the section is reached in the bill which attempts to make appropriations and against which the point of order is desired to be made.

For those reasons the Chair does not feel like recognizing the gentleman at this juncture to state points of order against the proposed bill.

Mr. Taber: May I call the attention of the Chair to the last sentence in clause 4 of rule XXI:

> A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

There have been decisions holding that the point of order would not lie to the bill or to its consideration, but I have cited to the Chair cases where such points of order have been made and have been sustained when the bill itself was not under consideration.

The Speaker: The Chair has undertaken to make it plain that the Chair's decision is based very largely upon the proposition that the resolution now being considered specifically waives all points of order that may be made against the bill, and includes those matters evidently against which the gentleman has in mind in making points of order.

§ 16.13 The House rejected a resolution reported from the Committee on Rules, providing for the consideration of a bill improperly reported (failure of a quorum to order the bill reported).

On July 23, 1973,[20] the House rejected House Resolution 495, called up by Mr. Claude D. Pepper, of Florida, by direction of the Committee on Rules and providing for the consideration of H.R. 8929 (to amend title 39, on the reduced mailing rate for certain matter). The resolution specifically waived Rule XI clause 27(e) (clause 2(l)(2)(A) in the 96th Congress) in relation to the bill; that clause provided that a quorum must actually be present when a bill is ordered reported by a committee, a requirement that was not followed in the reporting of the bill in question.

§ 16.14 Despite certain defects in the consideration or reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules.

On May 2, 1939,[1] Mr. Samuel Dickstein, of New York, made a point of order against an order of business resolution reported by the Committee on Rules and called up for consideration, on the ground that the bill made in order by the resolution had been referred to, considered by, and reported from a committee (the Committee on the Judiciary) which had no jurisdiction over the subject matter involved. After extended argument on the point of order, Speaker William B. Bankhead, of Alabama, overruled the point of order on the ground that after a public bill has been reported it is not in order to raise a question of committee jurisdiction. The Speaker further commented that even if there were defects in the committee consideration and report, the rule from the Committee on Rules would have the effect of remedying such defects:

> MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, in order to protect the rights of the Committee on Rules, will the Chair permit this observation? The gentleman from New York slept on his rights further until the Committee on Rules reported a rule making the consideration of this measure in order. Even though the reference had been erroneous and the point of order had been otherwise made in time, the Committee on Rules has the right to change the rules and report a rule making the legislation in order. This point also might be taken into consideration by the Speaker, if necessary.

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[20] 119 CONG. REC. 25482, 93d Cong. 1st Sess.

[1] 84 CONG. REC. 5052–55, 76th Cong. 1st Sess.

THE SPEAKER: The Chair is of the opinion that the statement made by the gentleman from Michigan, although not necessary to a decision of the instant question, is sustained by a particular and special decision rendered by Mr. Speaker Garner on a similar question. The decision may be found in the Record of February 28, 1933. In that decision it is held, in effect, that despite certain defects in the consideration or the reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules making in order a motion to consider such bill. The Chair thinks that that decision by Mr. Speaker Garner clearly sustains the contention made by the gentleman from Michigan.(2)

On July 23, 1942,(3) Mr. John E. Rankin, of Mississippi, made a point of order against a bill "not legally before the House," on the grounds that the committee of jurisdiction, the Committee on Election of President, Vice President, and Representatives in Congress, had never reported the bill with a quorum present. Speaker Sam Rayburn, of Texas, responded as follows:

THE SPEAKER: The Chair is ready to rule.

At this time there is no bill pending before the House. A resolution reported by the Committee on Rules will be presented to the House, which, if adopted, will make in order the consideration of H.R. 7416. If the Committee on Election of President, Vice President, and Representatives in Congress had never taken any action upon this bill and the Committee on Rules had decided to report a rule making it in order and putting it up to the House whether or not the House would consider the bill, they would have been within their rights. Therefore, the Chair cannot do otherwise than hold that there is nothing at the time before the House. It is anticipated that a special rule will be presented, making in order the consideration of H.R. 7416. If the House adopts the rule then the House has decided that it desires to consider the bill at this time, and the Chair therefore overrules the point of order of the gentleman from Mississippi [Mr. Rankin] and recognizes the gentleman from Illinois [Mr. Sabath].

Parliamentarian's Note: It is the present practice to waive points of order against the consideration of a bill by reason of specific defects in committee reports. For example, the failure of a committee to comply with the "Ramseyer" rule (Rule XIII clause 3, *House Rules and Manual* § 745 [1979]) may be raised after the House agrees to a resolution making the consideration of the bill in order and before the House resolves itself into the Committee of the Whole to consider the bill unless the rule has waived that point of order.

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(2) For the Feb. 28, 1933, decision referred to by the Chair, see 76 CONG. REC. 5247-49, 72d Cong. 2d Sess.

(3) 88 CONG. REC. 6541, 6542, 77th Cong. 2d Sess.

Orders for Considering Unreported Measures

§ 16.15 A point of order that the Committee on Rules has reported a special rule providing for the consideration of a bill prior to the time the bill to be considered was reported and referred to the Union Calendar does not lie.

On June 28, 1930,(4) Mr. Fred S. Purnell, of Indiana, called up by direction of the Committee on Rules a resolution making in order the consideration of a bill. Mr. Carl R. Chindblom, of Illinois, made a point of order against the report of the Committee on Rules, on the ground that the committee had reported the resolution to the House on June 20, 1930, whereas the bill was first reported to the House on a later date, on June 24, 1930 (and was recommitted twice to the committee of jurisdiction in order to correct errors in the report). Mr. Chindblom asserted that the effect of the resolution was to make it in order to resolve into the Committee of the Whole for the consideration of the bill, but not to waive the "rule which requires bills to be upon the calendar of the House before they can have consideration."

Speaker Nicholas Longworth, of Ohio, overruled the point of order and stated in part as follows:

> . . . The Chair thinks that all that special rules of this sort do is put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:
>
> > At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.
>
> Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

§ 16.16 The Committee on Rules may consider any matter that is properly before them, including providing for the consideration

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(4) 72 Cong. Rec. 11994, 11995, 71st Cong. 2d Sess.

of a bill on which a majority report has not yet been made.

On July 30, 1959,[5] Speaker Sam Rayburn, of Texas, answered parliamentary inquiries on the procedures of the Committee on Rules:

> MR. [CLARE E.] HOFFMAN of Michigan: I ask the question, under the rules of the House, can the Committee on Rules report out a bill before they get a majority report from the committee?
>
> THE SPEAKER: The gentleman from North Carolina [Mr. Barden] asked unanimous consent, which was obtained, to have until midnight tonight to file a report of the Committee on Education and Labor on the so-called labor bill.
>
> MR. HOFFMAN of Michigan: My question is, until a majority of the committee sign the report, can the Committee on Rules consider the bill?
>
> THE SPEAKER: The Committee on Rules has the authority to consider any matter which is properly before them. The Chair would certainly hold that this is properly before the Committee on Rules.
>
> MR. HOFFMAN of Michigan: Still, there is that word "properly." I was asking a simple question.
>
> THE SPEAKER: The Chair has answered the question.

§ 16.17 The Committee on Rules may report resolutions providing for the immediate consideration of bills not yet reported by the committees to which referred.

On Aug. 19, 1964,[6] the House adopted House Resolution 845, reported by the Committee on Rules, providing for the immediate consideration of H.R. 11926 (limiting the jurisdiction of federal courts in apportionment cases) which was pending before, and not yet reported by, the Committee on the Judiciary.

Following the adoption of the resolution, Speaker John W. McCormack, of Massachusetts, held that a point of order against consideration of the bill did not lie on the ground that the Committee on the Judiciary had not compiled with the "Ramseyer" rule (requiring comparative prints in committee report), since that rule only applies where a committee has reported a bill, and not where it has been discharged from consideration of the bill.

Similarly on Mar. 29, 1961, the House agreed to a special order from the Committee on Rules which provided for the immediate consideration of S. 153; the Senate bill had been referred to the Committee on Government Operations and had not yet been reported.(7)

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[5] 105 CONG. REC. 14743, 86th Cong. 1st Sess.

[6] 110 CONG. REC. 20212, 20213, 88th Cong. 2d Sess.

§ 16.18 The Committee on Rules may report to the House a resolution making in order the consideration of a conference report when filed, although the conference report was not prepared at the time of the action taken by the Committee on Rules.

On many occasions, the Committee on Rules has reported resolutions making in order the consideration of conference reports on the same day reported, notwithstanding the prohibition in clause 2, (a) and (b), Rule XXVIII, against consideration of conference reports, and amendments reported from conference in disagreement, until the third day after the report is filed in the House and printed in the *Congressional Record*. For example, on July 25, 1956, the House adopted a resolution from the Committee on Rules providing as follows:

> *Resolved*, That during the remainder of this week it shall be in order to consider conference reports the same day reported notwithstanding the provisions of clause 2, rule XXVIII; that it shall also be in order during the remainder of this week for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII.(8)

On June 30, 1951, the House adopted a resolution from the Committee on Rules which not only provided for a conference on an appropriation bill but also provided for the consideration of the conference report when reported:

> MR. [ADOLPH J.] SABATH [of New York]: Mr. Speaker, by direction of the Committee on Rules I submit a privileged report (H. Res. 309, Rept. No. 667) and ask for its immediate consideration.
>
> *Resolved*, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 277) making temporary appropriations for the fiscal year 1952, and for other purposes, with the Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said joint resolution be, and hereby is, agreed to by the House, and that the Speaker shall immediately appoint conferees without intervening motion.
>
> Sec. 2. It shall be in order to consider the conference report on the said joint resolution when reported notwithstanding the provisions of clause 2, rule XXVIII.(9)

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7. 107 CONG. REC. 5267, 87th Cong. 1st Sess.

8. 102 CONG. REC. 14456, 84th Cong. 2d Sess.

9. 97 CONG. REC. 7538, 82d Cong. 1st Sess.

Special Orders May Not Prevent Motion to Recommit

§ 16.19 The Committee on Rules may not report any order or rule which operates to prevent the offering of a motion to recommit as provided in Rule XVI clause 4, but such restriction does not apply to a special rule prohibiting the offering of amendments to a title of a bill during its consideration and thus prohibiting a motion to recommit with instructions to include such an amendment.

On Jan. 11, 1934,(10) Mr. William B. Bankhead, of Alabama, called up by direction of the Committee on Rules a resolution providing for the consideration of an appropriation bill; the resolution prohibited the offering of amendments to title II of the bill. Mr. Bertrand H. Snell, of New York, made a point of order against the rule on the ground that it violated Rule XI clause 45 [Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)] since it would operate to prevent certain motions to recommit, such as to recommit with instructions to include an amendment in title II. Speaker Henry T. Rainey, of Illinois, overruled the point of order:

THE SPEAKER: The Chair is prepared to rule. The gentleman from New York makes the point of order that the Committee on Rules has reported out a resolution which violates the provisions of clause 45, rule XI, which are as follows:

> The Committee on Rules shall not report any rule or order . . . which shall operate to prevent the motion to recommit being made as provided in clause 4, rule XVI.

The pertinent language of clause 4, rule XVI is as follows:

> After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or resolution.

The special rule, House Resolution 217, now before the House, does not mention the motion to recommit. Therefore, any motion to recommit would be made under the general rules of the House. The contention of the gentleman from New York that this special rule deprives the minority of the right to make a motion to recommit is, therefore, obviously not well taken. The right to offer a motion to recommit is provided for in the general rules of the House, and since no mention is made in the special rule now before the House it naturally follows that the motion would be in order.

A question may present itself later when a motion to recommit with instructions is made on the bill H.R. 6663 that the special rule which is now before the House may prevent a

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10. 78 CONG. REC. 479–83, 73d Cong. 2d Sess.

motion to recommit with instructions which would be in conflict with the provisions of the special rule. It has been held on numerous occasions that a motion to recommit with instructions may not propose as instructions anything that might not be proposed directly as an amendment. Of course, inasmuch as the special rule prohibits amendments to title II of the bill H.R. 6663 it would not be in order after adoption of the special rule to move to recommit the bill with instructions to incorporate an amendment in title II of the bill. The Chair, therefore, holds that the motion to recommit, as provided in clause 4, Rule XVI, has been reserved to the minority and that insofar as such rule is concerned the special rule before the House does not deprive the minority of the right to make a simple motion to recommit. The Chair thinks, however, that a motion to recommit with instructions to incorporate a provision which would be in violation of the special rule, House Resolution 217, would not be in order. For the reasons stated, the Chair overrules the point of order.

MR. SNELL: Will the Chair allow me to make a parliamentary inquiry?

THE SPEAKER: Certainly.

MR. SNELL: Do I understand from the ruling of the Chair the minority will be allowed to offer the usual motion to recommit?

THE SPEAKER: The usual simple motion to recommit provided by the rules.

On appeal, the House upheld the decision of the Chair by a rollcall vote of 260–112.

Parliamentarian's Note: The language of the resolution in question prohibited the offering of amendments to title II of the bill "during the consideration" of the bill (both in the House and in the Committee of the Whole). Normally, such resolutions only prohibit certain amendments during consideration in Committee of the Whole, allowing a motion to recommit with instructions in the House to add such amendments. This is apparently the only ruling by the Speaker on the authority of the Committee on Rules to limit, but not to prohibit, the motion to recommit.

Requesting Resolutions on the Order of Business

§ 16.20 Any Member may request that the Chairman of the Committee on Rules call a meeting of that committee to consider reporting a resolution making in order disposition of a House bill with Senate amendments which require consideration in Committee of the Whole, but a motion to send the bill to the Committee on Rules is not in order.

On Aug. 13, 1957,(11) objection was made to a unanimous-consent request to take from the Speaker's

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11. 103 CONG. REC. 14568, 85th Cong. 1st Sess.

table a House bill with a Senate amendment, disagree to the amendment, and ask for a conference with the Senate, Speaker Sam Rayburn, of Texas, answered parliamentary inquiries on requesting a special order from the Committee on Rules:

Mr. [Kenneth B.] Keating [of New York]: Would the Speaker recognize me to move to send the bill to the Rules Committee?

The Speaker: The Chair would not. It is not necessary to do that.

Mr. Keating: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Keating: Would the Speaker advise what action is necessary now in order to get the bill to the Committee on Rules?

The Speaker: Anyone can make the request of the chairman of the Committee on Rules to call a meeting of the committee to consider the whole matter.

Mr. Keating: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Keating: Mr. Speaker, if that were done, would the bill which is now on the Speaker's desk be before the Rules Committee?

The Speaker: It would not be before the Committee on Rules. The Committee on Rules could consider the matter of what procedure to recommend to the House for the disposition of this whole matter.

Requesting "Closed Rule"

§ 16.21 Members discussed, during debate on a resolution from the Committee on Rules providing a "closed" rule for a bill, the requirements of the Democratic Caucus rules as to seeking such rules and as to the procedures of the Committee on Rules in reporting such rules.

On Nov. 13, 1973,(12) the House was considering House Resolution 695, providing for the consideration of H.R. 11333, increasing social security benefits and reported from the Committee on Ways and Means. The resolution permitted only committee amendments to the bill. The following colloquy took place during the debate:

Mr. [Phillip] Burton [of California]: Mr. Speaker,(13) first I would like to state that I think, given the time constraints, that the Committee on Ways and Means has enacted essentially a very thoughtful set of changes to the Social Security Act. However, there is one aspect of this procedure that is potentially disturbing, so that the record can be clear in this one respect, I would like to pose a question to the distinguished gentleman from Oregon (Mr. Ullman) the acting

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12. 119 Cong. Rec. 36861-63, 93d Cong. 1st Sess.

13. Carl Albert (Okla.).

chairman of the committee. The question I pose is this:

As I understand the rules of the majority party caucus, there are certain procedures clearly delineated to be followed in the event a closed rule is to be sought. As I understand, the gentleman from Oregon indicated to the Rules Committee that because of this unexpected time crunch and for that reason only, that the seeking and obtaining of a closed rule in this one instance is not intended in any way, nor should it be considered to be a precedent for any future such effort by any committee to seek a closed rule without complying with whatever the ground rules as explicitly stated in the caucus recommendations.

Is that essentially a fair statement of the situation?

Mr. [Albert C.] Ullman: Mr. Speaker, let me say to my friend from California that the sole motivation of the Committee was to meet the timetable that was before the Congress. It certainly is not our intention to change any rules or procedures of any institution in this body, but we were under a time frame of action that demanded that we go to the Rules Committee and get a rule immediately.

I say to the gentleman that we have no present intention but to get this bill passed just as expeditiously as possible.

Mr. Burton: Mr. Speaker, as I understand the gentleman's response, it is in no way his intention, nor should it be construed by anyone in terms of establishing a precedent in overriding the rule I referred to earlier, is that correct?

Mr. Ullman: Yes.

§ 16.22 Pursuant to clause 17 of the Addendum of the Rules of the Democratic Caucus, a Member inserted in the Record notice of his intention to request the Committee on Rules to report to the House a "modified closed rule" for the consideration of a bill reported from the Committee on the Judiciary.

On Nov. 12, 1973,[14] William L. Hungate, of Missouri, a member of the Committee on the Judiciary who would be managing a bill reported from that committee on the floor, made an announcement regarding the request for a special order from the Committee on Rules for the consideration of the bill:

> Mr. Hungate: Mr. Speaker, on Tuesday, October 6, 1973, the Committee on the Judiciary ordered favorably reported the bill H.R. 5463, to establish rules of evidence for certain courts and proceedings.
>
> Pursuant to the provisions of clause 17 of the Addendum to the Rules of the Democratic Caucus for the 93d Congress, I am hereby inserting in the Congressional Record notice of my intention to request, following the expiration of 4 legislative days, the Committee on Rules to report to the House a resolution providing for a "modified closed rule" on the bill H.R. 5463. The rule I will be requesting

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[14] 119 Cong. Rec. 36651, 36652, 93d Cong. 1st Sess.

would provide in effect that after an extensive period of general debate not to exceed 4 hours, on the bill, further consideration of the bill for amendment would be postponed to a time certain to give Members an opportunity to draft and to insert in the Record any amendments which they proposed to offer to the bill. Those amendments, if offered, would not be subject to amendment on the floor, and article V of the bill, the "Privilege" article, would not be subject to amendment. Such a rule would I believe, best permit the House of Representatives to work its will on this important and complicated piece of legislation.

Parliamentarian's Note: Addendum 17 to the Rules of the Democratic Caucus read as follows in the 93d Congress, first session:

> 17. (*a*) It shall be the policy of the Democratic Caucus that no committee chairman or designee shall seek, and the Democratic Members of the Rules Committee shall not support, any rule or order prohibiting any germane amendment to any bill reported from committee until four (4) legislative days have elapsed following notice in the *Congressional Record* of an intention to do so. (*b*) If, within the four (4) legislative days following said notice in the *Congressional Record,* 50 or more Democratic Members give written notice to the chairman of the committee seeking the rule and to the chairman of the Rules Committee that they wish to offer a particular germane amendment, the chairman or designee shall not seek and the Democratic Members of the Rules Committee shall not support, any rule or order relating to the bill or resolution involved until the Democratic Caucus has met and decided whether the proposed amendment should be allowed to be considered in the House. (*c*) If 50 or more Democratic Members give notice as provided in subsection (*b*) above, then, notwithstanding the provisions of Caucus Rule No. 3, the Caucus shall meet for such purpose within three (3) legislative days following a request for such a Caucus to the Speaker and the chairman of the Democratic Caucus by said committee chairman or designee. (*d*) *Provided,* further, that notices referred to above also shall be submitted to the Speaker, the Majority Leader, and the chairman of the Democratic Caucus.

Meetings of Committee

§ 16.23 The Chairman of the Committee on Rules announced that the committee would meet in a larger than usual committee room in order to hear the application for a special order on a controversial tax bill.

On Sept. 17, 1963,(15) Howard W. Smith, Chairman of the Committee on Rules, made an announcement relative to a meeting of the committee on a tax bill:

> MR. SMITH of Virginia: Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

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15. 109 CONG. REC. 17210, 88th Cong. 1st Sess.

THE SPEAKER: Is there objection to the request of the gentleman from Virginia?

There was no objection.

MR. SMITH of Virginia: Mr. Speaker, on tomorrow the Committee on Rules will hear the application of the Committee on Ways and Means for a rule on the tax bill. There is considerable interest in this subject matter and our quarters in the Rules Committee are rather confining for a large crowd. For the convenience of the Members of the House who wish to be informed on the subject, and through the courtesy of the chairman of the Committee on Ways and Means, the Committee on Rules will meet not in our own chamber tomorrow but in the chamber of the Committee on Ways and Means in the New House Office Building in order to hear the application of the committee for a rule on the tax bill. There are many Members interested in this who would like to hear the discussion that will be carried on by the Chairman of the Committee on Ways and Means, the gentleman from Arkansas [Mr. Mills], and the ranking minority member, the gentleman from Wisconsin [Mr. Byrnes]. This meeting will be at 10:30 tomorrow morning.

Parliamentarian's Note: Rule XI clauses 2 (b) and (c) [*House Rules and Manual* § 705 (1979)] provides for regular meeting days, pursuant to written rules adopted by committees, and for additional meetings of committees to be called by the chairman thereof for the consideration of any bill or resolution pending before the committee.

§ 16.24 Rules were adopted by the Committee on Rules in the 93d Congress to govern meeting procedures.

In the 93d Congress, the Committee on Rules adopted (on Mar. 27, 1973) rules to govern its proceedings, including the following provisions to govern meetings:

(a) The Committee on Rules shall meet at 10:30 a.m. on Tuesday of each week when the House is in session. Meetings and hearings shall be called to order and presided over by the Chairman or, in the absence of the Chairman, by the Ranking Majority Member of the Committee present as Acting Chairman.

(b) A minimum 48 hours' notice of regular meetings and hearings of the Committee shall be given to all members except that the Chairman, acting on behalf of the Committee, may schedule a meeting or hearing for the consideration of emergency and/or procedural measures or matters at any time. As much notice as possible will be given to all members when emergency meetings or hearings are called; provided, however, that an effort has been made to consult the Ranking Minority Member.

(c) Meetings, hearings, and executive sessions of the Committee shall be open to the public in accordance with clause 16 and clause 27 of rule XI of the Rules of the House of Representatives, as amended by H. Res. 259, 93d Congress.

(d) For the purpose of hearing testimony, a majority of the Committee shall constitute a quorum.

(e) For the purpose of executive meetings, a majority of the Committee shall constitute a quorum.

(f) All measures or matters which have been scheduled for consideration by the Committee on which any Member of the House wishes to testify, and so requests, will be the subject of hearings, at which time all interested Members who are proponents or opponents will be provided a reasonable opportunity to testify.

(g) There shall be a transcript of regularly scheduled hearings and meetings of the Committee which may be printed if the Chairman decides it is appropriate, or if a majority of the members request it.

(h) A Tuesday meeting of the Committee may be dispensed with where, in the judgment of the Chairman, there is no need therefor, and additional meetings may be called by the Chairman, or by written request of a majority of the Committee duly filed with the Counsel of the Committee.

(i) The Committee may permit, by a majority vote on each separate occasion, the coverage of any open meeting or hearing, in whole or in part, by television broadcast, radio broadcast, and still photography under such requirements and limitations as set forth in the Rules of the House of Representatives.

(j) The five-minute rule in the interrogation of witnesses, until such time as each member of the Committee who so desires has had an opportunity to question the witness, shall be followed.

(k) When a recommendation is made as to the kind of rule which should be granted a copy of the language recommended shall be furnished to each member of the Committee at the beginning of the meeting where such language is to be considered or as soon thereafter as such recommendation becomes available.

§ 16.25 The Speaker held that the Committee on Rules had authority to sit during sessions of the House and was not included in a previous ruling of the Speaker that committees could not sit while bills were being read for amendment.

On May 27, 1946,(16) Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry on the power of the Committee on Rules to meet while the House was in session:

MR. [JAMES P.] GEELAN [of Connecticut]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GEELAN: In view of the previous ruling by the Chair that he would recognize reports of no committee which was meeting while the House was in session, what would be the situation?

THE SPEAKER: If the Chair made any such ruling today he does not remember it.

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16. 92 CONG. REC. 5863, 5864, 79th Cong. 2d Sess.

MR. GEELAN: I distinctly recall the Chair's prohibiting any committee's being in session or holding hearings while the House was in session.

THE SPEAKER: The Committee on Rules is exempt from that rule.

Parliamentarian's Note: In the 79th Congress, when the Speaker made the ruling cited, Rule XI clause 46 read as follows:

> No committee, except the Committee on Rules, shall sit during the sitting of the House, without special leave.

That rule was adopted in 1794, and the exception for the Committee on Rules was inserted in 1893.(17)

In the 93d Congress, Rule XI clause 17 [now Rule X clause 1(q)(4), *House Rules and Manual* § 686(a) (1979)] specifically provided that the Committee on Rules was authorized to sit and act whether or not the House was in session, and Rule XI clause 31 [now Rule XI clause 2(i), *House Rules and Manual* § 710 (1979)] provided that five committees, including the Committee on Rules, could sit without special leave while the House was reading a measure for amendment under the five-minute rule.(18)

Granting Special Order Governing Bill Already Under Consideration

§ 16.26 Where a section in a bill pending before the Committee of the Whole was struck out on a point of order (as constituting an appropriation on a legislative bill), the Committee rose, the House took a recess, and the Committee on Rules met and reported to the House a resolution which the House adopted, making in order an amendment to such bill in Committee of the Whole to reinsert the section which had been stricken out.

On Mar. 29, 1933, the Committee of the Whole was considering S. 598 (reforestation and unemployment relief) pursuant to a unanimous-consent request that the Senate

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17. 4 Hinds' Precedents § 4546.
In the 73d Congress, the Speaker ruled that he could order stricken from the calendar a bill where it was shown that the committee reporting it had sat during the session of the House without permission. 78 CONG. REC. 7057, 73d Cong. 2d Sess., Apr. 20, 1934.

18. The rule formerly provided that no committee except those named in the rule could sit without special leave at any time when the House was in session. The form of the rule in the 93d Congress was derived from the Legislative Reorganization Act of 1946 (see *House Rules and Manual* § 710 [1979] for the history of the provision).

bill be in order for consideration, instead of a similar House bill (H.R. 3905) which had previously been made a special order of business for that day (also by unanimous consent).

Chairman Ralph F. Lozier, of Missouri, sustained a point of order against section 4 of the Senate bill on the grounds that it constituted an appropriation on a legislative bill in violation of Rule XXI clause 4 [now Rule XXI clause 5, *House Rules and Manual* § 846 (1979)], and section 4 was thus stricken from the bill. Immediately following the Chair's ruling the Committee rose and a motion for a recess was adopted (at 5:42 p.m.).(19)

The recess having expired at 5:52 p.m., Speaker Henry T. Rainey, of Illinois, called the House to order and Mr. William B. Bankhead, of Alabama, reported and called up by direction of the Committee on Rules (which had met during the recess) a special order making in order an amendment to the Senate bill pending before the Committee of the Whole:(20)

AFTER RECESS

The recess having expired (at 5 o'clock and 52 minutes p.m.), the House was called to order by the Speaker.

MR. BANKHEAD: Mr. Speaker, by direction of the Committee on Rules, I report a privileged resolution, which I send to the desk and ask for its immediate consideration.

MR. [JOSEPH B.] SHANNON [of Missouri]: Mr. Speaker does not the rule have to lie over for a day?

THE SPEAKER: It does not.

The Clerk will report the resolution.

The Clerk read as follows:

HOUSE RESOLUTION 85

Resolved, That upon the adoption of this resolution it shall be in order to offer as an amendment in Committee of the Whole House on the state of the Union to the bill S. 598 the following language:

"Sec. 4. For the purpose of carrying out the provisions of this act, there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary; and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated."

All points of order against said amendment shall be considered as waived in the House and in the Committee of the Whole House on the state of the Union. . . .

THE SPEAKER: It requires a two-thirds vote to consider it. The question is, Shall the House consider the resolution?

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19. 77 CONG. REC. 988–90, 73d Cong. 1st Sess.

20. *Id.* at p. 990.

The question was taken; and on a division (demanded by Mr. Snell) there were—ayes 189; noes 71.

So (two-thirds having voted in favor thereof) the House determined to consider the resolution.

Mr. Bankhead: Mr. Speaker, I move the previous question on the adoption of the resolution.

The previous question was ordered.

The Speaker: The question is on agreeing to the resolution.

The resolution was agreed to.

The Committee of the Whole resumed its sitting and proceeded to consider the amendment:[21]

Mr. [Robert] Ramspeck [of Georgia]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 598) for the relief of unemployment through the performance of useful public work, and for other purposes.

The resolution was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 598, with Mr. Lozier in the chair.

The Clerk read the title of the bill.

Mr. Ramspeck: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Ramspeck: Page 3, after line 21, insert the following:
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> "Sec. 4. For the purpose of carrying out the provisions of this act there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary, and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated.". . .

Mr. Ramspeck: Mr. Chairman, this simply puts back in the bill section 4 exactly, which was ruled out on the point of order.

I move that all debate on this section do now close.

§ 16.27 A resolution waiving points of order against a certain provision in a general appropriation bill was considered and agreed to by the House after the general debate on the bill had been concluded and reading for amendment had begun in Committee of the Whole.

On May 21, 1969, general debate had been concluded in Committee of the Whole on H.R. 11400, the supplemental appropriations bill, and the first section of the bill had been read for amendment when the Committee rose.

The House then adopted a special order from the Committee on

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21. *Id.*

Rules which waived points of order against one section of the bill:[1]

Mr. [William M.] Colmer [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 414 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 414

> *Resolved*, That during the consideration of the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes, all points of order against title IV of said bill are hereby waived.

Mr. Colmer: Mr. Speaker, I yield the customary 30 minutes to the minority, to the very able and distinguished gentleman from California (Mr. Smith). Pending that I yield myself such time as I may consume.

Mr. Speaker, I shall not use all the time on this resolution. This is a rather unusual situation that we find ourselves in, parliamentarily speaking. We have debated the supplemental appropriation bill at some length under the privileged status of the Appropriations Committee. Now we come in with a resolution from the Rules Committee for one purpose and one purpose alone; that is, to waive points of order against a particular section of the bill.

Special Rule With Continuing Effect

§ 16.28 Form of resolution waiving points of order against certain legislative provisions in a general appropriation bill and providing that during the remainder of the Congress no amendments shall be in order to any other general appropriation bill which conflict with the provisions of the legislative language made in order by the special rule.

On Jan. 11, 1934,[2] the following resolution reported from the Committee on Rules was called up and adopted by the House:

> *Resolved*, That during the consideration of H.R. 6663, a bill making appropriations for the Executive Office and sundry independent bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1935, and for other purposes, all points of order against title II or any provisions contained therein are hereby waived; and no amendments or motions to strike out shall be in order to such title except amendments or motions to strike out offered by direction of the Committee on Appropriations, and said amendments or motions shall be in order, any rule of the House to the contrary notwithstanding. Amendments shall not be in order to any other section of the bill H.R. 6663 or to any section of any general appropriation bill of the Seventy-third Congress which would be in conflict with the provisions of title II of the bill H.R.

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[1] 115 Cong. Rec. 13246–51, 91st Cong. 1st Sess.

[2] H. Res. 217, 78 Cong. Rec. 479, 73d Cong. 2d Sess.

6663 as reported to the House, except amendments offered by direction of the Committee on Appropriations, and said amendments shall be in order, any rule of the House to the contrary notwithstanding.

Parliamentarian's Note: Title II of the bill proposed permanent and legislative amendments to a variety of statutes, to limit the salaries of federal officials, allowances and pensions, and was entitled "Economy Provisions." The effect of the resolution was to prohibit certain amendments to general appropriation bills during the remainder of the Congress, regardless of whether such amendments would have been in order under the general rules of the House. This special rule also prohibited the inclusion in a motion to recommit with instructions, on H.R. 6663 or any other general appropriations bill during the remainder of the Congress, of the type of amendment prohibited by the rule, since the special rule prohibited such amendments "during the consideration" of the bill (in both the Committee of the Whole and the House) and prohibited such amendments to any other general appropriation bill (by implication in both the Committee of the Whole and the House).

§ 17. Reports and Their Privilege

Pursuant to Rule XI clause 23,(3) it is "always" in order to call up a report from the Committee on Rules; the privilege of such reports yields to questions of privilege, conference reports and resolving into the Committee of the Whole where the House has so voted.(4) And if a resolution providing an order of business is not called up by the member of the Committee on Rules who has reported it within seven legislative days, any member of the committee may call it up as a privileged question.(5)

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3. *House Rules and Manual* § 729 (1973). [Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].

4. See note to Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979).

A report from the Committee on Rules takes precedence over a privileged motion to discharge a committee from further consideration of a resolution of inquiry (see § 17.7, infra), and has been called up before District of Columbia business which is privileged on District Day (see § 17.8, infra). However, the call of committees under the Calendar Wednesday rule has been held of higher privilege than a report from the Committee on Rules (see § 17.10, infra).

5. Rule XI clause 4(c), *House Rules and Manual* § 730 (1979). See § 17.9,

A report from the Committee on Rules, however, may not be considered on the same day reported except by a two-thirds vote,(6) by unanimous consent or by adoption of another rule reported from the Committee on Rules permitting such consideration.

Rule XI clause 24(7) provides that the Committee on Rules must report to the House within three legislative days of the time when the committee orders the report. If the committee makes an adverse report on a resolution providing an order of business, any Member of the House may call up for consideration such report on "discharge days" (under Rule XXVII clause 4) and move its adoption notwithstanding the adverse report.(8)

There are few formal requirements governing reports by the Committee on Rules. A quorum must be present when a resolution is ordered reported,(9) and it has been held that the Committee on Rules may not file two reports on the same resolution.(10) The Ramseyer rule (requiring a comparative print on bills and resolutions repealing or amending statutes) does not apply to reports on order of business resolutions (although clause 4(d) of Rule XI, as added in the 93d Congress, requires a comparative print in a Rules Committee report on a resolution permanently repealing or amending any rule of the House).(11) The Committee on Rules is specifically excepted from

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infra. At various times the rules of the House have included a special discharge rule applicable to orders of business which the Committee on Rules has failed to report; for discussion of the past provision, see § 18.52, infra.

6. Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979). See generally, Ch. 17, supra.
7. *House Rules and Manual* § 732 (1973). [Rule XI clause 4(c), *House Rules and Manual* § 730 (1979).]
8. Under the discharge rule, Rule XXVII clause 4, *House Rules and Manual* § 908 (1979), the Committee on Rules may be discharged from the further consideration of a resolution providing an order of business (see § 18, infra).
9. See §§ 17.5, 17.6, infra. The quorum requirement applies to all committees of the House. See Rule XI clause 27(e), *House Rules and Manual* § 735(c) (1973). [Now Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979)].
10. See § 17.4, infra. This ruling does not prohibit the filing of a supplemental report.
11. See § 17.3, infra. The cost-estimate rule, Rule XIII clause 7, *House Rules and Manual* § 748b (1979), also does not apply, since specifically limited to bills or joint resolutions of a public character.

the requirement in Rule XI that members wishing to file additional, supplemental, and minority views with a report have not less than three calendar days to do so.[12]

Filing Reports

§ 17.1 The Committee on Rules must present to the House reports concerning rules, joint rules, resolutions, and orders of business within three legislative days of the time when ordered reported by the committee (under Rule XI clause 24).

On Jan. 25, 1944,[13] Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry on reports from the Committee on Rules (under the provision that subsequently became Rule XI clause 4(c), *House Rules and Manual* § 730 [1979]):

> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, on day before yesterday the Committee on Rules voted, I understand unanimously, to report to the House a rule on the soldiers' vote bill, S. 1285. This rule has not been reported to the House.
>
> My parliamentary inquiry is whether if the chairman of the Committee on Rules declines further, or delays further, to report this rule to the House so we may proceed with this legislation, some other member of the Committee on Rules may do so without a resolution.
>
> I may say to the Chair that it is my definite understanding that unless the chairman of the Committee on Rules does report it, a motion will be in order under the privilege of the House to require the resolution to be brought to the floor of the House, but what I am trying to find out is whether or not some other member of the committee would have the right to report this rule and let us proceed with the legislation.
>
> THE SPEAKER: The rule provides that the Committee on Rules shall present to the House reports concerning joint resolutions and other business within 3 legislative days of the time when ordered reported by the committee.
>
> The Chair does not feel it necessary at this time to answer the parliamentary inquiry further because the Chair believes that action will provide the answer.

§ 17.2 The reporting of a special rule for the consideration of a bill in the House does not preclude the committee from which the bill is reported from obtaining unanimous consent to file a supplemental report in

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[12] Rule XI clause 27(d)(3), *House Rules and Manual* § 735(d)(3) (1973). [Now Rule XI clause 2(l)(5), *House Rules and Manual* § 714 (1979)]. The subject of committee reports is also discussed extensively in Ch. 17, supra.

[13] 90 CONG. REC. 675, 78th Cong. 2d Sess.

which is advocated an amendment to the bill.

On Feb. 29, 1940,[14] there was pending before the House a special order from the Committee on Rules providing for the consideration of a bill. A parliamentary inquiry was propounded relative to the fact that following the report from the Committee on Rules, the legislative committee reporting the bill reported a supplemental report recommending an amendment to the bill on the House floor:

> MR. [EARL C.] MICHENER [of Michigan]: The Speaker was not in the Chair when I raised my original point. The point was this, that a legislative committee asked for a rule to consider a specific piece of legislation dealing with a specific matter in a particular way. I was not then a member of the committee. After consideration the Rules Committee felt it wise to recommend a rule providing for the consideration of this particular thing in this particular way. Shortly after that the legislative committee secured unanimous consent to file a supplemental report on this original bill, and in their report the legislative committee adopted another bill dealing with the same matter but in an entirely different way and in a way that possibly—and probably—would not have been authorized when the rule was asked for.
>
> A confidential copy is floating around here of the bill which the committee intends to bring up. My inquiry is whether that can be done under the rules of the House. If that can be done, it is a simple matter for any committee to ask for a rule on a perfectly harmless bill which everyone might be for, and then, after they get the rule, bring in another bill in fact, under the same number. This rule was granted on July 10 last year. Then in January, 7 months later, they introduce a new bill in a supplemental report and are attempting to bring this new bill dealing with the same subject matter in an entirely different manner before the House under the old rule. Can that be done?

Speaker William B. Bankhead, of Alabama, answered the inquiry as follows:

> The gentleman from Michigan [Mr. Michener], who raises this question by parliamentary inquiry, of course, is familiar with the general principle that all proposed action touching the rules, joint rules, and orders of business shall be referred to the Committee on Rules. Under a broad, uniform construction of that jurisdiction, the Rules Committee, as the Chair understands it, has practically plenary power, unreserved and unrestricted power, to submit for the consideration of the House any order of business it sees fit to submit, subject, of course, to the approval of the House.
>
> The Chair, of course, knows nothing about what was in the minds of the

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[14] 86 CONG. REC. 2184, 2185, 76th Cong. 3d Sess.

committee in reference to this legislation. The Chair can only look at the face of the record as it is presented from a parliamentary standpoint. As the Chair construes the resolution now pending, it is very broad in its terms. It provides for the consideration of a Senate bill pending on the Union Calendar and the Chair assumes that the Committee on Rules was requested to give a rule for the consideration of that bill, which was the original basis for any legislation that may be passed touching this subject of stream pollution.

In conformance with the general power and jurisdiction of the Rules Committee, it did report a resolution providing that in the consideration of the Senate bill any germane amendments may be offered; and, of course, it is not the province of the Chair, presiding over the House, to determine the relevancy or germaneness of any amendment that may be submitted in the Committee of the Whole, whether by way of a substitute or by way of amendment.

The Chair is clearly of the opinion that the Rules Committee had a perfect right under the general authority conferred upon it to report this resolution providing for this method of consideration of the bill.

Form of Reports

§ 17.3 The Speaker held that reports of the Committee on Rules on special orders providing for the consideration of bills were not subject to the provisions of the Ramseyer rule (Rule XIII clause 3, referring to comparative prints on bills and joint resolutions repealing or amending statutes).

On May 23, 1935,(15) there was pending a special order from the Committee on Rules providing for the consideration of a bill reported from the Committee on Public Lands; Speaker Joseph W. Byrns, of Tennessee, overruled a point of order against the resolution:

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, I make the point of order that the report does not comply with the Ramseyer rule.

THE SPEAKER: The Chair will hear the gentleman.

MR. RICH: Mr. Speaker, I make the point of order that the report does not comply with the Ramseyer rule because it does not show the changes in the law by the proposed bill. I will read the rule which will be found in the Manual on page 338, 2a:

> Whenever a committee reports a bill or joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document—
>
> (1) The text of the statute or part thereof which is proposed to be repealed; and
>
> (2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typo-

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15. 79 CONG. REC. 8094, 74th Cong. 1st Sess.

graphical devices the omissions and insertions proposed to be made.

THE SPEAKER: The Chair is ready to rule. The Chair will state that the point of order raised by the gentleman may be good as to reports by a legislative committee. But this is a special rule from the Committee on Rules which merely makes in order the consideration of a bill. The Chair does not think the point is well taken when made against the report of the Committee on Rules and therefore overrules the point of order.

MR. RICH: Very well, I will make the point of order when the bill is taken up.

§ 17.4 The Speaker indicated that two reports may not be filed from the Committee on Rules on the same resolution.

On Jan. 17, 1950,(16) Mr. Adolph J. Sabath, of Illinois, reported to the House a resolution from the Committee on Rules (amending the rules of the House). In debate on the filing of the report, Mr. Edward E. Cox, of Georgia, who had been authorized by the committee to file the report, stated that he had stepped aside to allow Mr. Sabath to file the report. When Mr. Sabath indicated the probable time of calling up the report, Mr. Cox attempted to file another report on the resolution, and Speaker Sam Rayburn, of Texas, expressed serious doubt whether two reports on the same resolution could be filed at the same time. The proceedings were as follows:

MR. COX: Mr. Speaker, that is not in accord with the agreement. . . .

Mr. Speaker, if the gentleman will yield to me, by direction of the Committee on Rules I file a privileged resolution; and permit me to make this statement; these differences may be ironed out later.

THE SPEAKER: The Chair will ask the gentleman from Georgia if it is the same resolution that has already been reported to the House.

MR. COX: I presume it is the same resolution.

THE SPEAKER: The Chair doubts very seriously whether two reports on the same resolution can be filed at the same time.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I make a point of order against the filing of this rule at this time.

THE SPEAKER: Permit the Chair to handle this matter.

MR. MARCANTONIO: But I am making a point of order.

THE SPEAKER: The Chair was clarifying the situation. The Chair is of opinion that two reports cannot be filed on the same resolution at the same time. . . .

The Chair is trying to carry out orderly procedure. If two identical resolutions on the same subject matter can be reported, than a number can be reported and the Record would be cluttered up. The Chair hopes the

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16. 96 CONG. REC. 499–501, 81st Cong. 2d Sess.

gentleman from Virginia will not say that he hopes the Chair will allow something to be done if he thinks it is unnecessary because the report has already been filed.

Mr. Cox did not persist in attempting to file another report on the resolution.

Parliamentarian's Note: While a second report should not be filed on the same resolution, except to correct errors in the first, the Committee on Rules may report more than one resolution providing for the consideration of the same bill.

Quorum of Committee Required to Report Resolutions

§ 17.5 A report from the Committee on Rules was withdrawn because of a question as to whether or not a quorum of the committee was present at the time the resolution was ordered reported.

On Feb. 2, 1951,[17] Mr. Adolph J. Sabath, of Illinois, filed a report from the Committee on Rules. A colloquy ensued as to whether a quorum was present at the time the report was ordered reported. Mr. Sabath therefore withdrew the report.

Regularity of Meeting

§ 17.6 In the absence of evidence to the contrary, the Chair has no right to assume that the Committee on Rules had anything but a formal session in reporting a special order making in order a motion to consider a particular bill.

On July 23, 1942,[18] Mr. Adolph J. Sabath, of Illinois, called up by direction of the Committee on Rules House Resolution 528, making in order the consideration of a bill. Speaker Sam Rayburn, of Texas, overruled a point of order against the resolution:

> MR. [JOHN E.] RANKIN of Mississippi: Mr. Speaker, I make a point of order against the rule.
>
> I make the point of order, Mr. Speaker, that this rule was obtained by fraud; that it was represented to the Rules Committee that the Committee on Election of President, Vice President, and Representatives in Congress had held a meeting and reported this bill. No such meeting was ever held. The chairman of the committee was in New York, sick, and a majority of the rest of the members was not even notified that any such meeting was contemplated. Fraud vitiates everything, and I cannot believe that the Rules Committee would report this rule out knowing that they were being

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[17] 97 CONG. REC. 876, 82d Cong. 1st Sess.

[18] 88 CONG. REC. 6541, 6542, 77th Cong. 2d Sess.

defrauded. If they did not know it, the fraud vitiates the rule. That is a well-known legal maxim that every lawyer is familiar with. So I make the point of order, Mr. Speaker, that this proposition is not legally before the House because it was never legally reported. The members of the Rules Committee were misled into believing it had been reported and therefore were defrauded into reporting this rule, which vitiates the whole proceeding.

THE SPEAKER: The only thing that interests the Chair is whether or not the Committee on Rules had a formal meeting and reported this resolution. The Chair has no right, as the Chair thinks, in the absence of some evidence to the contrary, to assume that the Committee on Rules had anything but a formal session and reported this special rule. Therefore the Chair overrules the point of order of the gentleman from Mississippi.

Privilege and Precedence of Reports

§ 17.7 A report from the Committee on Rules, making an order of business, takes precedence over a privileged motion to discharge a committee from further consideration of a resolution of inquiry.

On Feb. 2, 1923, Mr. Louis C. Cramton, of Michigan, sought recognition to move to discharge the Committee on the Judiciary from further consideration of a resolution of inquiry directed to the Secretary of the Treasury, such motion having privileged status under Rule XXII clause 5 [*House Rules and Manual* § 855 (1979)]. Mr. Philip P. Campbell, of Kansas, also arose seeking recognition to call up from the Committee on Rules a privileged report making an order of business. Speaker Frederick H. Gillett, of Massachusetts, ruled as follows on the question of precedence between the two privileged matters:

> The Chair very often recognizes a person without knowing what motion that person is going to make. But that, the Chair thinks, does not give them any right. The question always is, Which gentleman has the motion of higher privilege? And every recognition of the Chair is provisional and subject to some other Member having a matter of higher privilege. The question on which the Chair would like to hear from the gentleman is, Which has the higher privilege—a resolution from the Committee on Rules or a motion to discharge a committee? . . . The Chair finds no precedent on the matter except one by Speaker Reed in which he said, 'This is a privileged question, but not a question of privilege.' Now, if it were a question of privilege the Chair would be disposed to think that the reason it was privileged was because it affected the privileges of the House, but this seems to negative that. If it is a privileged question, it is, as the gentleman from Tennessee suggests— . . . It is on a level with

a report from a privileged committee. Now, a report from the Committee on Rules always has precedence over that, because the rule expressly says that it shall always be in order to call up a report from the Committee on Rules. The Chair thinks the Committee on Rules has precedence, and the gentleman from Kansas [Mr. Campbell] is recognized.

An appeal was taken from the Chair's decision but was laid on the table.(19)

§ 17.8 On a District Day, the Speaker recognized a member of the Committee on Rules to call up a privileged resolution relating to the order of business, and later recognized the chairman of another committee to call up the business made in order thereby, prior to recognizing the Chairman of the Committee on the District of Columbia to call up District business under Rule XXIV clause 8.

On Sept. 24, 1962,(20) which was District of Columbia Day under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, first recognized Mr. William M. Colmer, of Mississippi, to call up by direction of the Committee on Rules House Resolution 804, making in order and providing for the consideration of Senate Joint Resolution 224, authorizing the President to call up armed forces reservists. The House having agreed to the resolution, the Speaker recognized Carl Vinson, of Georgia, Chairman of the Committee on Armed Services and manager of the joint resolution, to move that the House resolve itself into the Committee of the Whole for the consideration of the joint resolution, which was after debate agreed to be the House.

The Speaker then stated that it was District of Columbia Day and recognized Chairman John L. McMillan, of South Carolina, of the Committee on the District of Columbia for District business.(1)

§ 17.9 If a resolution providing a special order of business is not called up for consideration by the Member reporting the resolution within seven days, any member of the committee may call it up for consideration as a privileged matter, for which purpose the Speaker would be obliged to recognize such member, unless a matter of equal or higher privilege was pending.

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19. H. Jour. 225, 67th Cong. 4th Sess., Feb. 15, 1923.

20. 108 Cong. Rec. 20489–94, 87th Cong. 2d Sess.

1. *Id.* at p. 20522.

In the latter case the order of consideration would be determined by the Speaker's recognition.

On Sept. 22, 1966,[2] Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry on the order of business:

> MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, a parliamentary inquiry.
>
> Under the rules of the House, as I understand them, this rule, House Resolution 1007, to bring up the so-called House Un-American Activities Committee bill, is a privileged matter, and if it is not programed, then the gentleman handling the rule or any member of the Rules Committee, may call it up as a privileged matter. Is my understanding correct about that?
>
> THE SPEAKER: The gentleman's understanding is correct. Of course, the question of recognition is with the Chair, where there are two similar preferential matters, but the gentleman's understanding is correct that after 7 legislative days a member of the Rules Committee could call it up.
>
> If it were a question of recognition, if the same preferential status existed at the same time, recognition rests with the Chair.
>
> MR. COLMER: I thank the Speaker for his ruling.
>
> Mr. Speaker, in view of that, if the gentleman will continue to yield to me, I should like to serve notice now on the majority leadership that if this resolution is not programed at a reasonably early date, I shall exercise that privilege as the one who is designated to handle this rule.
>
> MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, I should like to announce further that the program for next week will be announced later in the day.

§ 17.10 The Speaker held that special orders from the Committee on Rules were not privileged for consideration on Calendar Wednesday.

On Aug. 21, 1935,[3] which was Calendar Wednesday under Rule XXIV clause 7, there was called up a resolution from the Committee on Rules, giving privilege to a motion to recess and waiving the two-thirds voting requirement for consideration of certain reports from the Committee on Rules. Mr. Bertrand H. Snell, of New York, objected that the resolution was not privileged on Calendar Wednesday and Speaker Joseph W. Byrns, of Tennessee, sustained the objection.

§ 17.11 Under Rule XI clause 23, the calling up of a resolution reported from the Committee on Rules is a matter of high

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[2] 112 CONG. REC. 23691, 89th Cong. 2d Sess.

[3] 79 CONG. REC. 14038, 14039, 74th Cong. 1st Sess.

privilege, and when consideration has begun and the resolution is under debate, the House can postpone further consideration and proceed to other business only by unanimous consent.

On Oct. 29, 1969, Mr. John A. Young, of Texas, called up, by direction of the Committee on Rules, a special order providing for the consideration of a bill. After consideration had begun and the resolution was under debate, Mr. Young asked unanimous consent "that further consideration of this resolution be postponed until tomorrow." The House agreed to the request.(4)

Parliamentarian's Note: A privileged resolution called up in the House may be withdrawn from consideration before action thereon, and if the resolution is later reoffered, debate under the hour rule begins anew. But if the House desires to use part of the hour's debate on one day and resume consideration on the next, it may by unanimous consent postpone further consideration or, if there is no further business or special orders to follow, it may simply adjourn so that the resolution would become unfinished business on the following day.

§ 17.12 The consideration of a privileged report from the Committee on Rules was held to take precedence over the calling of the Consent Calendar.

On Dec. 15, 1919, Mr. Philip P. Campbell, of Kansas, a member of the Committee on Rules, called up for consideration unfinished business coming over from a previous day, House Resolution 416, reported from the Committee on Rules and providing a special order of business. Mr. Thomas L. Blanton, of Texas, made a point of order against the consideration of the resolution, on the grounds that the consideration of the Consent Calendar (termed at that time bills "under suspension of the rules") took precedence on that day, being an eligible Monday for the Consent Calendar. Speaker Frederick H. Gillett, of Massachusetts, overruled the point of order.(5)

Nonprivileged Reports

§ 17.13 Although the Committee on Rules has authority to report as privileged a resolution creat-

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(4) 115 Cong. Rec. 32076-83, 91st Cong. 1st Sess.

Rule XI clause 23 is now Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979).

(5) H. Jour. 46, 66th Cong. 2d Sess.

ing a select House committee, the inclusion therein of a subject coming within the jurisdiction of another standing committee destroys its privilege, and it is therefore necessary for the committee to report a privileged resolution making in order the consideration of the nonprivileged matter reported by it.

On Jan. 31, 1973,[6] Mr. Ray J. Madden, of Indiana, called up, by direction of the Committee on Rules, House Resolution 176, a privileged order of business making in order the consideration of House Resolution 132, another resolution reported from the Committee on Rules creating a select committee. The first resolution was necessary because House Resolution 132 was not a privileged resolution under Rule XI clause 22 [now Rule X clause 4(a), *House Rules and Manual* § 726 (1979)], since it related to payment of money from the contingent fund on vouchers approved by the Speaker (a matter within the jurisdiction of the Committee on House Administration).

House Resolution 176, which was adopted by the House, read as follows:

H. Res. 176

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of the resolution (H. Res. 132) to create a select committee to study the operation and implementation of rules X and XI of the Rules of the House of Representatives. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the previous question shall be considered as ordered on the resolution to its adoption or rejection.

Similarly, on June 8, 1937, the House adopted a resolution from the Committee on Rules making in order the consideration of a bill from the Committee on Rules creating a joint committee, where the bill was not privileged for consideration:[7]

House Resolution 226

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. J. Res. 155, a joint resolution to create a Joint Congressional Committee on Tax Evasion and Avoidance, and all points of order against said joint resolution are hereby waived. That after general debate, which shall be confined to the joint resolution and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the joint resolution for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

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[6] 119 Cong. Rec. 2804, 93d Cong. 1st Sess.

[7] 81 Cong. Rec. 5442, 75th Cong. 1st Sess.

§ 17.14 A motion to recommit a privileged or nonprivileged proposition reported by the Committee on Rules may be made in order by a special rule reported from that committee.

On May 25, 1970, the House adopted the following resolution reported from the Committee on Rules providing for the consideration of (and allowing a motion to recommit) a joint resolution also reported from that committee, where the joint resolution was not privileged under Rule XI clause 22:[8]

H. Res. 1021

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1117) to establish a Joint Committee on Environment and Technology. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.[9]

Parliamentarian's Note: A privileged report from the Committee on Rules, when considered under the hour rule in the House pursuant to Rule XI, clause 4(b) (96th Congress), is not subject to a motion to recommit; but the Rules Committee may waive that restriction by otherwise providing for consideration in a special order.

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[8] *House Rules and Manual* §§ 726, 728 (1973) [now Rule XI clause 4(a), *House Rules and Manual* § 726 (1979)].

[9] 116 Cong. Rec. 16973, 91st Cong. 2d Sess.

§ 18. Consideration in the House

Resolutions affecting the order of business, reported from the Committee on Rules, are considered in the House, are debatable under the hour rule(10) and require a majority vote for adoption.

Reports on orders of business are called up by a member of the committee who has been authorized to do so, unless the report has been on the House calendar for seven legislative days without being called up, in which case any member of the committee may call up the resolution.(11)

There are other methods, rarely invoked, for obtaining consideration of special orders. Under Rule XI clause 24,(12) in the event an adverse report is made by the Committee on Rules on an order of business resolution, any Member of the House may call up the report and move the adoption of the resolution on days when motions to discharge committees are in order under Rule XXVII clause 4.(13) The latter provision replaced the "21-day" discharge rule which was in effect in the 89th and in previous Congresses and which permitted calling up a special order either adversely reported by the Committee on Rules or not reported within 21 calendar days after reference.(14)

Although the "21-day" rule was deleted from the rules of the 90th Congress, Rule XXVII clause 4, the regular discharge rule, provides that the Committee on Rules may be discharged from the consideration of a resolution providing a special order of business or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee.(15)

On most occasions, however, a report from the Committee on Rules reaches the floor by being called up by a member of that committee who has been so authorized. Such reports are privileged for consideration, as discussed in § 17, supra. If the report is called up the same day reported, the

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(10) Rule XIV clause 2, *House Rules and Manual* § 758 (1979).

(11) See §§ 18.1–18.5, infra, for calling up special orders.

(12) *House Rules and Manual* § 732 (1973) [now Rule XI clause 4(c), *House Rules and Manual* § 730 (1979)].

(13) *House Rules and Manual* § 908.

(14) For the 21-day discharge rule, its history and effect, see § 18.52, infra.

(15) For the application of the discharge rule to resolutions pending before the Committee on Rules, see §§ 18.44–18.50, infra.

House must by a two-thirds vote (of those Members present and voting) agree to consider it.(16) Where a privileged report is called up from the Committee on Rules on the day reported, the Speaker first puts the question whether the House shall consider the resolution (after the report has been referred to the House Calendar and ordered printed), and no debate is in order until the question of consideration is determined.(17) If the House fails to determine the question of consideration in the affirmative, the report remains on the House Calendar.(18)

The two-thirds requirement does not apply during the last three days of a session,(19) and the two-thirds voting requirement for consideration on the same day reported does not affect the requirement that a majority actually adopt the resolution.(20)

The Member who is recognized to call up a special order is recognized for one hour, which he may yield in his discretion; by custom of the Committee on Rules, the manager of the resolution yields half of the hour to the minority.(1) If the resolution is withdrawn by unanimous consent while under debate, the Member calling it up again is recognized for a full hour.(2) But no Member may speak on a resolution from the Committee on Rules unless the Member in control yields to him.(3) The hour of debate on such resolutions may be extended by unanimous consent.(4) And under Rule XIV clause 1,(5) debate on a special order must be confined to the question.(6)

Since a resolution from the Committee on Rules is considered in the House under the hour rule, amendments are in order only if: (1)

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16. See §§ 18.6, 18.7, infra.
17. See §§ 18.11–18.14, infra. The House may by unanimous consent agree to consider the report the same day reported (see § 18.13,, infra).
18. See § 18.10, infra.
19. See §§ 18.8, 18.9, infra.
20. See § 18.7, infra.

1. See § 18.15, infra. Where the manager loses control of the resolution, the Member recognized has no compunction to divide the time (see § 18.17, infra, discussing circumstances following rejection of the previous question). A Member calling up a special order pursuant to the "21-day" discharge rule, no longer in effect, was also under no compunction to yield to the other side (see § 18.52, infra).
2. See § 18.42, infra.
3. See §§ 18.15, 18.17, infra.
4. See § 18.16, infra.
5. *House Rules and Manual* § 749 (1979).
6. See §§ 18.39, 18.40, infra, for relevancy of debate on special orders.

committee amendments are submitted in the report;(7) (2) the Member who has called up the resolution offers an amendment to the resolution;(8) (3) the manager of the resolution yields for an amendment;(9) or (4) the previous question is rejected.(10) But if amendments are offered in one of the ways specified, such amendments must be germane to the resolution.(11)

In the event that the previous question is rejected, the Member who led the opposition to the motion will be recognized by the Chair for one hour; the Member recognized may yield such time as he desires, may offer an amendment to the resolution, and may move the previous question on the resolution as amended. A motion to table may also be offered following the rejection of the previous question.(12)

While the resolution is under debate, it may be postponed only by unanimous consent (although it may be withdrawn before action thereon).(13) And the motion to recommit, after the previous question is ordered, is not in order on a resolution from the Committee on Rules, although the resolution may be recommitted by unanimous consent.(14) As to the motion to adjourn, Rule XI clause 23 provides that pending the consideration of a privileged report from the Committee on Rules, only one motion to adjourn is in order.(15)

Pursuant to Rule XVI clause 6,(16) any resolution or order reported from the Committee on Rules and providing a special order of business is not subject to a division of the question but must be voted on in its entirety.(17)

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7. See §§ 18.21, 18.22, infra.
8. See §§ 18.19 (generally), 18.23–18.26 (amendments offered by manager), infra.
9. See §§ 18.19, 18.27–18.29, infra. If the manager yields for amendment, he loses control and the Member offering the amendment is recognized for one hour (see § 18.28, infra).
10. See §§ 18.19, 18.32–18.36, infra.
11. See §§ 18.30, 18.31, infra.
12. See § 18.33, infra.
13. See §§ 18.37 (postponement), 18.41, 18.42 (withdrawal), infra.
14. See § 18.38, infra. Rule XVI clause 4, *House Rules and Manual* § 782 (1979), generally provides for a motion to recommit, after the previous question is ordered, on a bill or joint resolution.
15. See *House Rules and Manual* § 729 (1973) [now Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].
16. See *House Rules and Manual* § 791.
17. See § 18.43, infra.

Calling Up Rules Committee Reports

§ 18.1 Only a member of the Committee on Rules authorized by the committee to do so may call up a report from the committee providing for a special order of business, unless the rule has been on the calendar seven legislative days without action, where any member of the committee may call it up as a privileged matter.

On June 6, 1940,[18] Mr. Hamilton Fish, Jr., of New York, sought recognition to call up, "pursuant to Rule XI, paragraph 2, chapter 45" [Rule XI clause 4(c), *House Rules and Manual* § 730 (1979)] a resolution reported from the Committee on Rules, providing a special order of business for the consideration of a bill. Mr. William M. Colmer, of Mississippi, by the direction of the Committee on Rules, had reported the resolution to the House on the same day. Speaker William B. Bankhead, of Alabama, ruled that Mr. Fish, not having been authorized by the committee, could not call up the rule for consideration:

> **The Speaker:** The Chair cannot recognize the gentleman from New York to call up the resolution unless the Record shows he was authorized to do so by the Rules Committee. The Chair would be authorized to recognize the gentleman from Mississippi [Mr. Colmer] to call up the rule in the event the resolution offered by the gentleman from New York, which was the unfinished business, is not called up.
>
> **Mr. Fish:** Will the Chair permit me to read this rule?
>
> **The Speaker:** The Chair would be glad to hear the gentleman.
>
> **Mr. Fish:** Rule XI reads as follows:
>
>> It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting).
>
> I submit, according to that rule and the reading of that rule, Mr. Speaker, that any member of the Rules Committee can call up the rule, but it would require the membership of the House to act upon it by a two-third vote in order to obtain consideration.
>
> **The Speaker:** The precedents are all to the effect that only a Member authorized by the Rules Committee can call up a rule, unless the rule has been on the calendar for 7 legislative days without action.
>
> **Mr. Fish:** Of course, there is nothing to that effect in the reading of the rule.
>
> **The Speaker:** The Chair is relying upon the precedents in such instances.

§ 18.2 A member of the Committee on Rules announced his intention to call up for consideration, under Rule XI clause 24, a report from that committee which had been

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[18] 86 Cong. Rec. 7706, 76th Cong. 3d Sess.

reported for more than seven legislative days but not scheduled for consideration.

On Sept. 22, 1966,(19) Mr. William M. Colmer, of Mississippi, propounded a parliamentary inquiry whether a resolution reported from the Committee on Rules and not called up within seven legislative days (H. Res. 1007, providing for consideration of the "House Un-American Activities bill") could be called up by any member of the committee. Speaker John W. McCormack, of Massachusetts, responded in the affirmative and Mr. Colmer stated that if the resolution was not "programed at a[n] . . . early date," he would "exercise that privilege as the one who is designated to handle this rule."

§ 18.3 The ranking minority member of the Committee on Rules, pursuant to Rule XI clause 24, which authorizes any member of that committee to call up a rule reported seven days or more without being called up, called up a resolution providing for the consideration of a bill.

On July 27, 1956,(20) Mr. Leo E. Allen, of Illinois, the ranking minority member of the Committee on Rules, called up a resolution providing for the consideration of a bill; the resolution had been reported to the House and had not been called up by the member making the report within seven legislative days. The Majority Leader commented on the procedure:

> MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I want the House to understand what the situation is. Our Republican friends are trying to take over control of the House by this motion. I want my Democratic friends to understand just what this means. The gentleman from Illinois [Mr. Allen] under the rules called up the resolution, which he is entitled to do when a rule is reported out for 7 days and he is within his rights in doing so. But, I want the House to know just what has happened. It is the first time in all my years of service in the House of Representatives, no matter what party was in control of the House, that a motion of this kind has been made to call up a rule which has a preferential status under the rules of the House. The bill is on the program and it might have been reached.

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19. 112 CONG. REC. 23691, 89th Cong. 2d Sess.
Rule XI clause 24 is now Rule XI clause 4(c), *House Rules and Manual* § 730 (1979).

20. 102 CONG. REC. 15195, 15196, 84th Cong. 2d Sess.
Rule XI clause 24 is now Rule XI clause 4(c), *House Rules and Manual* § 730 (1979).

Subsequently, the resolution was adopted and the Majority Leader moved that the House resolve itself into the Committee of the Whole for the consideration of the bill, which was agreed to.

§ 18.4 A minority member of the Committee on Rules called up and obtained consideration of a resolution reported by that committee providing a special order of business.

On July 14, 1949,[1] a resolution providing a special order of business, reported by the Committee on Rules, was called up for consideration as follows by a minority member of the committee:

Mr. [James W.] Wadsworth [Jr., of New York]: Mr. Speaker, under rather unusual circumstances and in violation of some of the traditions of the House, as a minority Member I venture to call up House Resolution 278, and ask for its immediate consideration.

The Clerk read as follows: . . .

Mr. Wadsworth: Mr. Speaker, in further explanation of this unusual performance, of a member of the minority of the Committee on Rules calling up a rule, may I say I can see no member of the majority party of the Committee on Rules here present to take charge of the rule. I have, however, consulted with the gentleman from Tennessee who, I am informed on infallible authority, is the Democratic whip, and I have his consent to behave in this atrocious manner.

I understand under the rules 1 hour of debate is in order. On this side of the aisle no requests for time have been made to speak on the rule. I now inquire if there are any requests for time on the majority side?

Mr. [J. Percy] Priest [of Tennessee]: Mr. Speaker, if the gentleman will yield, the chairman of the Committee on Rules, who had this rule under consideration, I believe understood that perhaps the bill would be passed over today. So if there is no request for time on the rule, if the gentleman from New York [Mr. Wadsworth] will move the previous question, since he has called the rule up, I believe that would be in order and we could proceed with the consideration of the bill.

Mr. Wadsworth: Mr. Speaker, it is with great cheerfulness that I move the previous question on the rule.

The previous question was ordered.

The Speaker Pro Tempore:[2] The question is on the resolution.

The resolution was agreed to.

§ 18.5 The Majority Leader called up by unanimous consent a resolution reported by the Committee on Rules providing a special order of business on behalf of that committee.

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[1] 95 Cong. Rec. 9511, 81st Cong. 1st Sess.

[2] Jere Cooper (Tenn.).

On June 3, 1948,[3] Charles A. Halleck, of Indiana, the Majority Leader, asked unanimous consent to call up on behalf of the Committee on Rules House Resolution 621, providing for the consideration of a bill. The unanimous-consent request was agreed to.

Consideration on Same Day Reported by Two-thirds Vote

§ 18.6 Objection to the consideration of a report from the committee on Rules on the same day reported will not lie, since Rule XI clause 23 [Rule XI clause 4(b) in the 1979 House Rules and Manual] provides for such consideration upon an affirmative vote of two-thirds of the Members voting.

On Dec. 23, 1963,[4] Mr. Howard W. Smith, of Virginia, called up a resolution, providing an order of business, which the Committee on Rules had reported the same day; Speaker John W. McCormack, of Massachusetts, held that objection to the consideration of the resolution was not in order:

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, in view of the fact that the rule has just been granted and there are no other copies available, I ask unanimous consent that the resolution be read.

THE SPEAKER: Without objection, the Clerk will report the resolution.

There was no objection.

The Clerk read the resolution.

THE SPEAKER: The question is, Will the House now consider the resolution?

MR. [PAUL] FINDLEY [of Illinois]: Mr. Speaker, I object. Section 22 of rule 11 provides that the rule shall lie on the Speaker's desk for 24 hours.

THE SPEAKER: The Chair will advise the gentleman that he passed upon this question the other day and a two-thirds vote would make the resolution in order.

The question is, Will the House now consider the resolution?

The Speaker referred to an occasion on Dec. 21, 1963 (legislative day of Dec. 20) where he had held similar objection not in order to the consideration of a Committee on Rules report.[5]

§ 18.7 When a resolution reported from the Committee on Rules is called up the same day it is reported, a two-thirds vote is required to consider it, but merely a majority to adopt it.

On Aug. 16, 1962,[6] Mr. B. F. Sisk, of California, reported from the Committee on Rules a resolution providing for the consideration of a bill; Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry on the procedure should the resolution be called up immediately:

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[3] 94 CONG. REC. 7108, 80th Cong. 2d Sess.

[4] 109 CONG. REC. 25495, 88th Cong. 1st Sess.

[5] *Id.* at p. 25249.

[6] 108 CONG. REC. 16759, 87th Cong. 2d Sess.

Mr. [Gerald R.] Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Ford: Mr. Speaker, is my understanding correct that the gentleman from California is moving for the consideration of the rule, and if this is approved by a two-thirds vote, then we will consider the rule, which also has to be approved by a two-thirds vote. Also is the rule granted by the Committee on Rules in reference to H.R. 12333 a closed rule with a motion to recommit with instructions?

The Speaker: The resolution has not been reported as yet, and the gentleman from California has not yet made a motion; but, assuming the gentleman from California offers a motion for the present consideration of the resolution, the question of consideration would be submitted to the membership without debate and a two-thirds vote would be necessary to consider the resolution. If the question of consideration was decided in the affirmative the resolution would then be considered under the regular rules of the House, providing 1 hour of debate, one-half of the time to be assigned to the member of the Rules Committee on the minority side in charge. At the termination of the hour, there would be a majority vote on the adoption of the rule.

Speaker Sam Rayburn, of Texas, answered a similar parliamentary inquiry on May 29, 1946:[7]

Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Michener: Am I correct in stating that the procedure will be as follows: When the rule is called up, there will be a vote immediately on the question of the present consideration of the rule without any debate. If two-thirds of the Members vote for immediate consideration of the rule, then we are in exactly the same position as when a rule is reported to the House, that is, there will be 1 hour's debate, one-half to be controlled by the majority and one-half by the minority. Then those who are opposed to the Senate amendment may vote against that rule. A vote for consideration is not a vote for the rule. It requires two-thirds to get consideration today. It requires a majority only to pass the rule.

The Speaker: The gentleman has correctly stated the parliamentary situation.

§ 18.8 The requirement that two-thirds of the Members voting

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[7] 92 Cong. Rec. 5924, 79th Cong. 2d Sess.

agree to consider a resolution from the Committee on Rules on the same day reported does not apply to resolutions called up during the last three days of a session.

On Dec. 31, 1970,[8] a resolution from the Committee on Rules, providing for the consideration of a joint resolution containing continuing appropriations, was called up on the same day that it was reported. In response to a parliamentary inquiry, Speaker John W. McCormack, of Massachusetts, stated that a two-thirds vote for the consideration of the resolution was not necessary under Rule XI clause 23 [now Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)] since the resolution was called up during the last three days of the session.

§ 18.9 Where a session of Congress is required by the 20th amendment to the Constitution to end at noon on Sunday, Jan. 3, that Sunday is considered a "dies non" and not counted in computing the final three days within which the Committee on Rules may call up a resolution on the same day reported under Rule XI clause 23.

On Dec. 31, 1970 (where the term of the 91st Congress was to end pursuant to the 20th amendment to the Constitution at noon on Sunday, Jan. 3, 1971),[9] Mr. William M. Colmer, of Mississippi, reported from the Committee on Rules a special order providing for the consideration of a bill, and then called up the resolution for consideration. Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries relative to the provision in Rule XI clause 23 [Rule XI clause 4(b), § 729(a) in the 1979 *House Rules and Manual*] that a report from the Committee on Rules may be considered on the same day reported, without a two-thirds vote, during the last three days of a session:

Mr. [Sidney R.] Yates [of Illinois]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Yates: Mr. Speaker, as I understand it, this is a rule that was reported by the Committee on Rules today.

In view of rule XI, section 22, will approval of this rule require a two-thirds vote, in view of the fact that the rule provides as follows:

> It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for considera-

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[8] 116 Cong. Rec. 44292, 44293, 91st Cong. 2d Sess.

[9] 116 Cong. Rec. 44292, 44293, 91st Cong. 2d Sess.

tion on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session).

The parliamentary inquiry I address to the Chair is: Are we within the last 3 days of the session or without them, and is this rule subject to approval by a majority vote or a two-thirds vote?

The Speaker: The Chair is holding that we are within the last 3 days of the session and that consideration of this resolution is not subject to the two-thirds vote requirement.

Mr. Yates: Rather than a two-thirds vote?

The Speaker: In answer to the gentleman's inquiry, a two thirds vote is not required to consider the resolution during the last 3 days of a session of Congress.

Mr. Yates: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Yates: Will the Chair enlighten me by defining the 3-day period? Are they 3 legislative days or 3 calendar days?

The Speaker: The Chair will state to the gentleman from Illinois in response to his parliamentary inquiry that there are only 3 days remaining; which would be Thursday, Friday, and Saturday.

Mr. Yates: Well, it is not within the 3 days end under that definition, is it, Mr. Speaker?

The Speaker: The Chair will state to the gentleman that Sundays are not counted within the purview of the rule. Former Speaker Longworth held that Sunday was "non dies" in a ruling in 1929—see also Cannon's Precedents, vol. VII, 944 and 995.

Mr. Yates: Mr. Speaker, for the edification of the membership and as a further parliamentary inquiry, are holidays considered to be Sundays for the purpose of that rule at this point?

The Speaker: The Chair does not have to pass upon the question of holidays. The Chair answered the gentleman's parliamentary inquiry which the gentleman very frankly presented and which the Chair answered to the effect that we are within the last 3 days of this session.

§ 18.10 Where the House refuses to consider a report from the Committee on Rules on the day reported by failing to authorize such consideration by a two-thirds vote, the report remains on the House Calendar.

On June 12, 1933,(10) the House refused to consider a report from the Committee on Rules on the same day reported, the question of consideration not obtaining a two-thirds vote. The resolution had been referred to the House Calendar and ordered printed when filed.

Putting Question of Consideration on Same Day Reported

§ 18.11 Before a special order from the Committee on Rules may be

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10. 77 Cong. Rec. 5814, 5815, 73d Cong. 1st Sess.

acted upon on the day reported, the question of consideration must be decided in the affirmative by a two-thirds vote, and the Speaker first puts the question whether the House shall consider the resolution.

On July 15, 1932,[11] Mr. John J. O'Connor, of New York, reported by direction of the Committee on Rules a special order (allowing Members to extend remarks until the end of the session) and then sought recognition to call up the resolution. Mr. Carl E. Mapes, of Michigan, made the point of order that calling up the resolution required unanimous consent, and Speaker John N. Garner, of Texas, referred to the rule [Rule XI clause 23 (Rule XI clause 4(b), § 729(a) in the 1979 *House Rules and Manual*)] allowing consideration by a two-thirds vote. Mr. O'Connor then sought recognition to move the previous question on the resolution. In response to a parliamentary inquiry, the Speaker discussed the proper procedure for considering a Committee on Rules report on the same day reported and determined that the question of consideration should be first put by the Speaker to the House:

MR. MAPES: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MAPES: It would seem to me the House should take action on the specific motion as to whether or not it will consider the resolution as reported by the Rules Committee before the resolution is called up for a vote. That motion might carry by two-thirds vote and then the House could act upon the resolution reported by the committee; but if the Speaker may place before the House immediately any resolution reported from the Committee on Rules without any notice, then the membership of the House is not protected at all, because in that case any rule or resolution that is brought out by the Committee on Rules may be placed upon its immediate passage.

THE SPEAKER: If the gentleman is asking a parliamentary inquiry, the Chair will attempt to answer it; but if the gentleman intends to make an argument, the Chair will not recognize him for that purpose.

MR. MAPES: I made a point of order. If the Speaker has ruled, that is all there is to it.

THE SPEAKER: The Chair thinks he could recognize any member of the Committee on Rules to call up any resolution reported by that committee and if two-thirds of the Members voted for its consideration it would become the order of the House.

MR. MAPES: But, if the Speaker will permit, the rule expressly provides that during the last six days of the session the Speaker is authorized to recognize anyone to move to suspend the rules.

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[11] 75 CONG. REC. 15468, 15469, 72d Cong. 1st Sess.

Now, it does not seem to me this rule is the same as that.

The Speaker: The Chair will again read that provision of the rule, and the membership of the House can determine.

> (Except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session.)

Mr. Mapes: I do not want to appear to be contentious about the matter, but let me make sure that I make my point clear. The rule provides that it shall not be called up unless two-thirds of the House determine that it shall be. Now, my point is that the Speaker himself is determining that it shall be called up when he puts the question before the House and that the House ought to determine in advance whether it is to be called up or not.

The Speaker: That seems to the Chair easily settled. The question is, Shall the House consider the resolution? That will satisfy the gentleman, I suppose.

Mr. [William H.] Stafford [of Wisconsin]: Mr. Speaker, I waive my right to the floor and yield it to the gentleman from New York.

Mr. Mapes: Mr. Speaker, I want to make myself clear. I am not opposing this resolution at all, but I do think we ought not to establish a precedent which will allow the Speaker to put a resolution or a report from the Committee on Rules until the House itself decides that it should be put.

The Speaker: The Chair is of the same opinion. The question is, Shall the House consider this resolution?

The question was taken; and on a division (demanded by Mr. Schafer) there were—ayes 201, noes 20.

So two-thirds having voted in favor thereof, the question was decided in the affirmative.

The Speaker: The question is on agreeing to the resolution.

The resolution was agreed to.

§ 18.12 Where objection is made to a unanimous-consent request for the immediate consideration of a resolution on the day reported by the Committee on Rules, the Speaker puts the question to the House to determine whether two-thirds favor such consideration.

On May 19, 1949, Mr. John E. Lyle, Jr., of Texas, asked unanimous consent for the immediate consideration of a resolution from the Committee on Rules providing an order of business, where Mr. Lyle had reported the resolution to the House on the same day. Objection was made to the request, and Speaker Sam Rayburn, of Texas, put the question on the consideration of the resolution. Two-thirds voted in favor of consideration.(12)

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12. 95 Cong. Rec. 6474, 6475, 81st Cong. 1st Sess.
See also 104 Cong. Rec. 7630, 7631, 85th Cong. 2d Sess., Apr. 29, 1958.

§ 18.13 The House may by unanimous consent (and without a two-thirds vote) consider a report from the Committee on the Rules on the same day reported.

On Jan. 24, 1955,[13] the House agreed to a unanimous-consent request relating to the order of business:

> MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow to consider a report from the Committee on Rules as provided in clause 21, rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby waived.
>
> THE SPEAKER:[14] Is there objection to the request of the gentleman from Virginia?
>
> There was no objection.

On Sept. 23, 1940, the House, by unanimous consent, considered and adopted on the same day reported a special order from the Committee on Rules waiving points of order against legislative provisions in an appropriation bill.[15]

§ 18.14 When a resolution from the Committee on Rules is called up the same day it is reported, no debate thereon is in order until the House agrees to consider the resolution by a two-thirds vote.

On May 26, 1964,[16] Mr. Richard Bolling, of Missouri, reported from the Committee on Rules a privileged resolution waiving points of order against a bill and asked for its immediate consideration. Speaker John W. McCormack, of Massachusetts, immediately put the question on whether the House would then consider the resolution and answered a parliamentary inquiry in relation to the procedure being followed:

> MR. BOLLING: Mr. Speaker, I call up House Resolution 736 and ask for its immediate consideration.
>
> THE SPEAKER: The Clerk will report the resolution.
>
> The Clerk read the resolution.
>
> THE SPEAKER: The question is, Will the House now consider House Resolution 736?
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. GROSS: Does this require unanimous consent?
>
> THE SPEAKER: It requires a two-thirds vote.
>
> MR. GROSS: Mr. Speaker, is there any way to ascertain the reason for this request?

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[13] 101 CONG. REC. 625, 84th Cong. 1st Sess.

[14] Sam Rayburn (Tex.).

[15] 86 CONG. REC. 12480, 76th Cong. 3d Sess.

[16] 110 CONG. REC. 11951, 88th Cong. 2d Sess.

THE SPEAKER: If the House decides to consider it, then the debate will be under the 1-hour rule on the resolution.

MR. GROSS: Is there no way of ascertaining what is being done here, Mr. Speaker? Is there no time available?

THE SPEAKER: The Chair will state at this point that it is a matter of consideration. If consideration is granted, which requires a two-thirds vote, then the resolution will be considered under the 1-hour rule.

The question is, Will the House now consider House Resolution 736?

The question was taken.

Debate Under the Hour Rule

§ 18.15 A Member calling up a privileged report from the Committee on Rules has one hour at his command and other Members may be recognized only if yielded time by him.

On Oct. 9, 1968,(17) Mr. Ray J. Madden, of Indiana, called up, by direction of the Committee on Rules, House Resolution 1315 (providing for the consideration of S.J. Res. 175, suspending equal-time requirements of the Communications Act of 1934 for the 1968 Presidential and Vice Presidential campaigns). Mr. Madden was recognized for one hour and Speaker John W. McCormack, of Massachusetts, indicated that the hour was within his control, and that parliamentary inquiries could not be propounded without his so yielding:

THE SPEAKER: The gentleman from Indiana is recognized for 1 hour.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Does the gentleman from Indiana yield to the gentleman from Michigan?

MR. GERALD R. FORD: Mr. Speaker, a parliamentary inquiry.

MR. MADDEN: I do not yield.

THE SPEAKER: The Chair is asking the gentleman from Indiana if he yields to the gentleman from Michigan for the purpose of making a parliamentary inquiry.

MR. MADDEN: No.

MR. GERLAD R. FORD: Mr. Speaker, I demand the right to make a parliamentary inquiry.

MR. MADDEN: I yield.

MR. GERALD R. FORD: Mr. Speaker, I make a demand of personal privilege.

THE SPEAKER: Just a minute. The gentleman from Indiana has yielded to the gentleman from Michigan for the purpose of making a parliamentary inquiry.

Parliamentarian's Note: A Member calling up an order of business resolution by direction of the Committee on Rules customarily yields one-half of his hour of debate to the minority, to be controlled and yielded by them.

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17. 114 CONG. REC. 30217, 90th Cong. 2d Sess.

If the manager of the resolution yields for amendment, or if the previous question is voted down, the Member who is then recognized controls one hour of debate.

§ 18.16 Debate in the House on a resolution reported from the Committee on Rules is under the hour rule, and that time may be extended only by unanimous consent.

On June 21, 1972,(18) the House had under debate an order of business resolution from the Committee on Rules, which resolution had been called up by Mr. Thomas P. O'Neill, Jr., of Massachusetts. During the debate, Mr. O'Neill asked unanimous consent, because he had so many requests from Members to speak on the resolution, that time for debate be extended 30 minutes, divided between himself and Mr. H. Allen Smith, of California, of the Committee on Rules. The request was agreed to.

§ 18.17 A Member recognized under the hour rule, following the rejection of the previous question on a resolution from the Committee on Rules, has control of that time and is under no compunction to yield half of the time to the other side as is the customary practice of the Committee on Rules.

On Oct. 19, 1966,(19) the House had under debate a resolution from the Committee on Rules (H. Res. 1013, establishing a Select Committee on Standards and Conduct) which was called up by Mr. Claude D. Pepper, of Florida. The previous question was rejected by the House, and Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry on the control of debate:

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, I ask for time to debate this resolution further, since the previous question was not ordered.

MR. PEPPER: Mr. Speaker——

THE SPEAKER: For what purpose does the gentleman from Florida rise?

MR. PEPPER: To make a parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. PEPPER: My inquiry is, if the Speaker should recognize the able gentleman from Ohio as having control of the time, in view of the defeat of the motion to order the previous question, would the gentleman from Ohio have the authority or have the right to accord half of the time allotted to him to a representative of those who are the advocates of the resolution, as I did a while ago when I had control of the whole hour?

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18. 118 CONG. REC. 21694, 92d Cong. 2d Sess.

19. 112 CONG. REC. 27713–29, 89th Cong. 2d Sess.

THE SPEAKER: If the Chair recognizes the gentleman from Ohio, it will be for a period of not exceeding 1 hour. The yielding of time then will rest within the discretion and judgment of the gentleman from Ohio. . . .

In order that the time start running, the Chair recognizes the gentleman from Ohio [Mr. Hays] for 1 hour.

MR. PEPPER: Mr. Speaker, will the gentleman yield?

MR. HAYS: I yield to the distinguished gentleman from Florida.

MR. PEPPER: Would the able gentleman from Ohio be willing to yield half of his time to a representative who advocates the resolution?

MR. HAYS: I will say to the gentleman from Florida, I will endeavor to yield the proponents of the resolution an equal amount of time, but I believe if I yielded half of my time, I might lose it all.

Parliamentarian's Note: Similarly, when the "21-day" rule for the discharge of the Committee on Rules of orders of business was in effect, the Member recognized to call up such a resolution under that rule had control of one hour and could yield to other Members in his discretion, but was not bound by the custom of the Committee on Rules to yield one-half of the time to the minority (or opposing side).(20)

§ 18.18 Pending a motion to lay on the table a motion to reconsider the vote whereby a resolution providing an order of business had been agreed to without debate and without adoption of the previous question, the Speaker advised that the motion to reconsider (1) would be debatable if the pending motion to table was defeated, and (2) that in such event the Member moving reconsideration would be recognized to control the one hour of debate.

On Sept. 13, 1965,(1) the House adopted House Resolution 506, providing for the consideration of a bill; the resolution had been brought up under a motion to discharge (under the "21-day" rule) and had been voted on when the Member calling it up, Mr. Adam C. Powell, of New York, did not debate or move the previous question on the resolution.

Mr. William M. McCulloch, of Ohio, moved that the vote on the adoption of the resolution be reconsidered, and Mr. Carl Albert, of Oklahoma, moved to lay that motion on the table. Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry on the time for debate on the motion to reconsider should the motion to table be rejected:

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(20) See, for example, 111 CONG. REC. 23618, 23619, 89th Cong. 1st Sess., Sept. 13, 1965.

(1) 111 CONG. REC. 23608, 89th Cong. 1st Sess.

Mr. [Melvin R.] Laird [of Wisconsin]: Mr. Speaker, on the resolution just passed no one was allowed to debate that resolution on behalf of the minority or the majority. If this motion to table, offered by the gentleman from Oklahoma [Mr. Albert] is defeated, then there will be time to debate the resolution just passed.

The question of reconsideration is debatable, and it can be debated on the merits of the legislation which has not been debated by the House.

The Speaker: What part of the gentleman's statement does he make as a parliamentary inquiry?

Mr. Laird: Mr. Speaker, if the motion to table is defeated, the motion to reconsider will give us an opportunity to debate the question on the resolution.

The Speaker: Under the present circumstances, the motion to reconsider would be debatable.

Mr. Laird: I thank the Speaker.

Mr. McCulloch: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. McCulloch: Mr. Speaker, what time would be allowed to debate the question and how would it be divided?

The Speaker: It will be under the 1-hour rule and the gentleman from Ohio would be entitled to the control of the entire hour.

When Amendments Are in Order

§ 18.19 Special rules reported from the Committee on Rules are subject to amendment while the rule is pending if the Member in control yields for an amendment, offers one himself, or if the previous question is voted down.

On Nov. 24, 1942, Mr. Edward E. Cox, of Georgia, called up a special order from the Committee on Rules and while it was pending offered an amendment thereto. Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry on procedures for amending such a resolution:

Mr. Cox: I yield to the gentleman from Pennsylvania, of course.

Mr. [Robert F.] Rich [of Pennsylvania]: I understood the gentleman to say he had to get unanimous consent to make this amendment to the rule in order that the bill might be passed. If this is the case I certainly shall object to it.

Mr. Cox: The gentleman, of course, has the privilege of voting against the amendment if he wishes.

Mr. Rich: I shall vote against it.

Mr. Cox: Mr. Speaker, as I have stated the bill is worthless with section 8 eliminated.

Mr. [John E.] Rankin of Mississippi: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rankin of Mississippi: Is the rule amendable before the previous question is voted down?

Mr. Cox: Yes; I take it that the rule can be amended.

MR. RANKIN of Mississippi: I should like to know just what the parliamentary situation is on this, Mr. Speaker.

THE SPEAKER: The Chair, of course, will entertain a motion to amend any special rule at any time while the rule is pending if the gentleman in control yields for it or if he offers it himself or if the previous question should be voted down.(2)

§ 18.20 Where the House had ordered the previous question on an amendment in the nature of a substitute for a resolution and on the resolution (reported from the Committee on Rules), the Speaker indicated that no further amendment to the resolution would be in order.

On June 13, 1973,(3) the House rejected the previous question on House Resolution 437, reported from the Committee on Rules, providing for the consideration of H.R. 8410, a bill reported from the Committee on Ways and Means providing a temporary increase in the public-debt limit. The resolution as reported waived points of order against the bill and provided for the offering as an amendment of a designated bill already passed by the House (the designated bill contained appropriations).

Following the rejection of the previous question, Mr. John B. Anderson, of Illinois, who led the fight against the previous question, was recognized by Speaker Carl Albert, of Oklahoma, to offer an amendment in the nature of a substitute for the resolution, which amendment eliminated the waiver of points of order against the text of the designated bill. The previous question was ordered on the amendment and on the resolution, the amendment was agreed to, and the Speaker answered a parliamentary inquiry:

THE SPEAKER: The question is on the resolution.

MR. [ROBERT L.] LEGGETT [of California]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. LEGGETT: We have now had one amendment to the rule. I am wondering at this point would another amendment for tax reform, as suggested by Mr. Reuss, be in order?

THE SPEAKER: The answer is "no," because the previous question has been ordered on the resolution.

Committee Amendments

§ 18.21 Where a privileged resolution is reported by the Committee on Rules with committee amend-

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(2) 88 CONG. REC. 9100, 77th Cong. 2d Sess.

(3) 119 CONG. REC. 19337-45, 93d Cong. 1st Sess.

ments, the amendments may be reported and acted upon before the Member reporting the measure is recognized for debate thereon.

On Aug. 19, 1964,(4) the House proceeded as follows on a resolution from the Committee on Rules with committee amendments:

THE SPEAKER:(5) The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11926) to limit jurisdiction of Federal courts in reapportionment cases. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

THE SPEAKER: The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Lines 1 and 2, page 1, strike the words "it shall be in order to move that," and line 2, page 1, after the word "House" insert "shall immediately".

THE SPEAKER: Without objection, the committee amendments are agreed to.

There was no objection.

THE SPEAKER: The gentleman from Virginia [Mr. Smith] is recognized for 1 hour.

Parliamentarian's Note: Although special orders from the Committee on Rules with committee amendments are customarily handled in this fashion, the manager of the resolution could if he desired seek recognition under the hour rule before the committee amendments were offered or before they were agreed to. The previous question can be moved only on the committee amendments or on the amendments and on the resolution.

§ 18.22 The Committee on Rules reported out a resolution providing for consideration of a bill, with an amendment designating another bill on the same subject but which had not been reported by the committee to which it was referred.

On Aug. 8, 1949,(6) Mr. Ray J. Madden, of Indiana, called up by direction of the Committee on

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4. 110 CONG. REC. 20213, 88th Cong. 2d Sess.
5. John W. McCormack (Mass.).
6. 95 CONG. REC. 10988–97, 81st Cong. 1st Sess.

Rules House resolution 183, providing for consideration of the bill H.R. 3190 (amending the Fair Labor Standards Act of 1938), with a committee amendment. The amendment struck out the number of the bill designated in the resolution, and substituted therefor the number of a different but related bill (also amending the Fair Labor Standards Act and pending before the Committee on Education and Labor, which had reported the bill H.R. 3190):

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3190) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Education and Labor now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.
>
> With the following committee amendments:
>
> Page 1, line 4, strike out "(H.R. 3190)" and insert "(H.R. 5856)."
>
> Page 2, line 1, strike out the remainder of the line after the period and all of lines 2 through 6, inclusive.

The House agreed to the amendment and to the resolution as amended.

Parliamentarian's Note: House Resolution 183 had been introduced in order to obtain its consideration (and the consideration of H.R. 3190) under the "21-day rule" in effect in the 81st Congress. After the resolution had been introduced and referred to the Committee on Rules for 21 days without action, notice was given by the chairman of the Committee on Education and Labor that he would pursuant to the 21-day rule call up the resolution in the House should the Committee on Rules fail to report it. The Committee on Rules reported out the resolution, but with a germane amendment providing for the consideration of another bill on the same subject, which had been referred to the Committee on Education and Labor but not reported.

While an amendment, providing for the consideration of one bill, may not be germane to a resolution reported from the Committee on Rules providing for the consideration of another bill on an unrelated subject (see, e.g., Sept. 14, 1950, 96 CONG. REC. 14832–44, 81st Cong. 2d Sess), in this case the amendment provided for the consideration of a bill referred to the same committee and amending the same act with similar purposes.

Amendments Offered by Manager

§ 18.23 A Member calling up a special order from the Committee on Rules has control of the floor and time and may move an amendment to the resolution without direct authorization of the Committee on Rules.

On May 24, 1934,(7) Speaker Henry T. Rainey, of Illinois, ruled that a Member recognized to call up a resolution from the Committee on Rules had the right to offer an amendment thereto without authorization by the committee:

> MR. [EDWARD E.] COX [of Georgia]: Mr. Speaker, this is a resolution to make in order the Wilcox bill (H.R. 2837) to provide for the establishment of the Everglades National Park in the State of Florida, and for other purposes. The rule provides for 2 hours' general debate on the bill.
>
> Since there is an hour on the rule, which will be largely devoted to a discussion of the merits of the bill, I offer a motion to amend the resolution by striking out the word "two", in line 2, and substituting in lieu thereof the word "one", which means reducing general debate from 2 hours to 1 hour.
>
> THE SPEAKER: The gentleman from Georgia offers a committee amendment which the Clerk will report.
>
> The Clerk read as follows:
>
> > Committee amendment: Page 1, line 10, strike out the word "two" and insert in lieu thereof the word "one."
>
> MR. [FREDERICK R.] LEHLBACH [of New Jersey]: Mr. Speaker, a point of order. This is not a committee amendment.
>
> MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, the committee has never acted on the suggestion of the gentleman from Georgia [Mr. Cox].
>
> MR. COX: Is the gentleman from Massachusetts not prepared to consent to this amendment?
>
> MR. MARTIN of Massachusetts: No.
>
> MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, I make the point of order that the gentleman

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7. 78 CONG. REC. 9494, 9495, 73d Cong. 2d Sess.

from Georgia [Mr. Cox] is in charge of the resolution and the time. He has the floor and he may offer any amendment he wants to offer.

The Speaker: The point of order of the gentleman from Texas [Mr. Blanton] is sustained.

Mr. Martin of Massachusetts: Mr. Speaker, I question the gentleman's authority to amend the rule without a meeting of the Rules Committee.

Mr. Cox: I am handling the rule for the committee, and I think it is my privilege to offer an amendment.

Mr. Martin of Massachusetts: What would be the use of having meetings of the Rules Committee if any one Member could come in here and offer a committee amendment without consulting the other members of the committee?

Mr. Blanton: The gentleman from Georgia [Mr. Cox] represents the majority of the committee and has the floor. He can offer such amendments as he desires. Mr. Speaker, I ask for the regular order.

Mr. Martin of Massachusetts: I ask for a ruling by the Chair.

The Speaker: The gentleman from Georgia [Mr. Cox] is in charge of the matter and has a perfect right to offer an amendment.

Parliamentarian's Note: While the Member calling up the rule has the authority to offer or yield for an amendment, he normally does so only if authorized by the Committee on Rules (see § 18.27, infra).

§ 18.24 A resolution reported from the Committee on Rules was amended on the floor of the House to correct a drafting error.

On June 28, 1965,(8) Mr. Claude D. Pepper, of Florida, called up, by direction of the Committee on Rules, a special order for the consideration of a bill. He offered an amendment to the resolution in order to correct an error therein made in drafting the resolution (changing the name of the committee which had reported the bill).

§ 18.25 The Member calling up a special order from the Committee on Rules asked unanimous consent that the resolution be amended, and when the request was objected to offered an amendment to the resolution which was adopted.

On Sept. 30, 1966,(9) Mr. B. F. Sisk, of California, called up, by direction of the Committee on Rules, House Resolution 1036, providing for the consideration of H.R. 17607, suspending the investment credit tax (reported from the Committee on Ways and Means). He asked unanimous consent that the resolution be amended to permit

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8. 111 Cong. Rec. 14861–66, 89th Cong. 1st Sess.

9. 112 Cong. Rec. 24539, 24540, 89th Cong. 2d Sess.

separate votes in the House on any amendments which might be adopted in the Committee of the Whole (the Committee on Ways and Means had determined, after the resolution had been reported from the Committee on Rules, to offer some major amendments to the bill, which amendments were not included in the reported version of the bill). When the unanimous-consent request of Mr. Sisk was objected to, he offered an amendment to the resolution, which amendment was agreed to by the House.

§ 18.26 Where the Committee on Rules intended to recommend a waiver of points of order against unauthorized items in a general appropriation bill but not against legislative language therein, the Member calling up the resolution offered an amendment to reflect that intention.

On July 21, 1970,(10) Mr. John A. Young, of Texas, who had called up by direction of the Committee on Rules a special order waiving points of order against an appropriation bill, made the following explanation in debate:

> Mr. Young: . . . Mr. Speaker, House Resolution 1151 is a resolution waiving points of order against certain provisions of H.R. 18515, the Departments of Labor, Health, Education, and Welfare and related agencies appropriation bill for fiscal year 1971. . . .
>
> Because the authorizations have not been enacted, points of order are waived against the bill for failure to comply with the first provision of clause 2, rule XXI. By mistake, the second provision was covered by the rule—so I have an amendment at the desk to correct the resolution. Now, Mr. Speaker, as stated there is a clerical error in the rule and at the proper time I shall send to the desk a committee amendment to correct the clerical error.
>
> Mr. Speaker, I urge the adoption of the resolution.
>
> Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, will the gentleman yield?
>
> Mr. Young: I yield to the gentleman from Iowa.
>
> Mr. Gross: With regard to waiving points of order, the gentleman just said that he expects to offer an amendment to limit it to eight areas or provisions of the bill; is that correct?
>
> Mr. Young: Yes. There were several provisions, as I have stated, relating to programs that are in progress currently but for which the authorizations expired at the end of the last fiscal year.
>
> The chairman of the Committee on Appropriations and the ranking minority Member, together with others from the Committee on Appropriations appeared before the Rules Committee and asked that the points of order

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10. 116 Cong. Rec. 25240–42, 91st Cong. 2d Sess.

be waived with regard to these specific provisions.

Now, I would say to the distinguished gentleman from Iowa that the rule, through a clerical error, waived points of order against two other provisions which were not intended to be waived. That is why I previously stated that a committee amendment would be offered to correct that situation.

The committee amendment was offered and adopted:

Mr. Young: Mr. Speaker, I offer a committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Young: Strike out lines 5 through 7 of the resolution and insert in lieu thereof the following: "purposes, all points of order against appropriations carried in the bill which are not yet authorized by law are hereby waived."

The amendment was agreed to.

Mr. Young: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Yielding for Amendment

§ 18.27 A member of the Committee on Rules, calling up a privileged resolution from that committee, has the option of yielding for an amendment, but he normally declines to do so on his own responsibility and yields only if he has authorization to do so from the Committee on Rules.

On May 1, 1968,[11] Mr. Claude D. Pepper, of Florida, had called up by direction of the Committee on Rules a special order providing for the consideration of a bill (H.R. 16729, extending the higher education student loan program). He discussed and inquired of Speaker pro tempore Carl Albert, of Oklahoma, about his power to yield to another Member to offer an amendment to the resolution:

Mr. Pepper: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Pepper: Would it be permissible for a Member on the floor, without convening the Rules Committee, to offer an amendment to the rule? I believe that perhaps I, as the Member handling the rule, have a right to yield to a Member, only to whom I wish to yield, to offer an amendment. Would it be permissible for me to yield to the gentleman from Kentucky to offer that amendment to the rule, so as to provide, on page 2, after the period, I would presume, in the second line, "and points of order shall be waived with respect to one amendment to be offered by the chairman of the Committee on Education and Labor"?

The Speaker Pro Tempore: May the Chair inquire of the gentleman whether he has instructions from the Committee on Rules to offer such an amendment?

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[11] 114 Cong. Rec. 11305, 11306, 90th Cong. 2d Sess.

Mr. Pepper: I have no specific instructions for yielding for the offering of that amendment, from the Committee on Rules, except it was within the intendment, I understood, of the Committee on Rules that this amendment would be admissible. I do not propose to act by the authority of the Committee on Rules if I should yield for such an amendment.

The Speaker Pro Tempore: The gentleman, of course, would be doing it on his own responsibility, then, and not subject to the order of the Committee on Rules.

The Chair will add, the only other way an amendment could be offered to the rule would be under the rules of the House. . . .

Mr. Pepper: Mr. Speaker, I have not offered any such amendment. I do not propose to yield for the purpose of offering such an amendment, since I do not have authority to do so from the Committee on Rules. I simply present the rule as it is written to the House for its consideration.

§ 18.28 In the House a Member having charge of a resolution providing a special order loses his right to resume when he yields to another to offer an amendment, and the sponsor of the amendment is recognized under the hour rule.

On July 16, 1956,(12) Mr. William M. Colmer, of Mississippi, called up by direction of the Committee on Rules a resolution providing two days of general debate thereon. Mr. Colmer was recognized for one hour but yielded to Mr. Howard W. Smith, of Virginia, at the latter's request, for the purpose of offering an amendment to the resolution to change the two days to eight hours. In response to parliamentary inquiries, Speaker Sam Rayburn, of Texas, stated that in yielding for an amendment to the resolution Mr. Colmer had lost control and the right to resume debate on the resolution and that Mr. Smith was recognized for one hour, with the right to yield to other Members.

§ 18.29 A special rule reported by the Committee on Rules is subject to germane amendment if the manager yields for an amendment before moving the previous question.

On Apr. 15, 1936,(13) Mr. Edward E. Cox, of Georgia, called up by direction of the Committee on Rules a resolution providing for the consideration of a bill; before moving the previous question, he yielded to Mr. John J. O'Connor, of New York, to offer an amendment to the resolution, and then moved the previous question on the resolution and amendment (after debate on the amendment by Mr. O'Connor). In response to a parliamentary inquiry, Speaker Joseph W. Byrns, of Tennessee, indicated that it was within the power of the gentleman handling the resolution to yield for an amendment before moving the previous question and that in the absence of the previous question any Member could offer a germane amendment.

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(12) 102 Cong. Rec. 12917, 12922, 12923, 84th Cong. 2d Sess.

(13) 80 Cong. Rec. 5535, 5536, 74th Cong. 2d Sess.

Nongermane Amendments

§ 18.30 A special rule providing for the consideration of one bill may generally not be amended by substituting another bill, except by unanimous consent.

On June 17, 1935,[14] the manager of a resolution from the Committee on Rules providing for the consideration of a bill obtained unanimous consent to amend the resolution to provide for the consideration of another bill (where both bills amended the Agricultural Adjustment Act):

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, I ask unanimous consent to amend the rule as follows: On page 1, line 4, strike out the figures "8052" and insert in lieu thereof the figures "8492."

The Clerk read the amendment as follows:

> Amendment offered by Mr. O'Connor: Page 1, line 4, strike out the figures "8052" and insert in lieu thereof the figures "8492."

THE SPEAKER:[15] Is there objection to the request of the gentleman from New York?

MR. [FREDERICK R.] LEHLBACH [of New York]: Mr. Speaker, reserving the right to object, and I do not contemplate objecting under certain circumstances to the unanimous-consent request, but the point occurs to me that the amendment is clearly out of order.

MR. O'CONNOR: That is why I am asking unanimous consent to make the change. I admit it is not in order to offer the amendment.

MR. LEHLBACH: It is to protect the procedure of the House that I make this statement. The rules provide that by motion from the floor one bill may not be substituted for another bill upon the same subject.

MR. O'CONNOR: I agree with the gentleman.[16]

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[14] 79 CONG. REC. 9454, 74th Cong. 1st Sess.

[15] Joseph W. Byrns (Tenn.).

[16] See also 5 Hinds' Precedents §§ 5834–36; 8 Cannon's Precedents § 2956 (to a resolution providing for the consideration of one bill, an amendment providing for the consideration of another bill is not germane). But see § 18.22, supra, for an instance where the Committee on Rules reported and the House adopted a committee amendment providing for the consideration of a different bill than that denominated in the original resolution. In that case

Parliamentarian's Note: The rule of germaneness (Rule XVI clause 7) applies only to amendments and not to original text. Thus the Committee on Rules may report a resolution making in order, to a designated bill, a nongermane amendment, such as another bill on a different subject.

§ 18.31 A resolution providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for consideration of another and nongermane subject or matter; thus to a resolution providing that the House disagree to a Senate amendment directing the Committee on Ways and Means of the House and the Finance Committee of the Senate to conduct a study of excess-profits tax legislation, an amendment providing that the House concur in such amendment with an amendment enacting excise-tax legislation was held to be not germane.

On Sept. 14, 1950,[17] Mr. Adolph J. Sabath, of Illinois, called up House Resolution 842, from the Committee on Rules, providing for taking a House bill with Senate amendments from the table, disagreeing to the Senate amendments, and agreeing to a conference. The previous question was voted down on the resolution, and Mr. Herman P. Eberharter, of Pennsylvania, offered an amendment to the resolution to provide that on all Senate amendments except one, the amendments be disagreed to and a conference be agreed to; on the remaining Senate amendment (which directed committees to study excess-profits legislation), Mr. Eberharter's amendment proposed to concur in the Senate amendment with an amendment enacting excise-tax legislation. Mr. Wilbur D. Mills, of Arkansas, made a point of order against the amendment on the ground that it was not germane, since the Senate amendment proposed a study of legislation and the amendment proposed enacted legislation. Speaker Sam Rayburn, of Texas, ruled as follows after hearing argument by Mr. Eberharter:

> MR. EBERHARTER: In the first place, Mr. Speaker, this amendment seeks to amend the resolution reported out by the Committee on Rules. This resolution waives points of order with respect to other rules of the House. Under the rules of the House when a bill comes from the other body with amend-

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the separate bill was on the same subject as the bill originally made in order by the rule, and presumably germane thereto.

[17] 96 CONG. REC. 14832–44, 81st Cong. 2d Sess.

ments containing matter which would have been subject to a point of order in the House then the amendment must be considered in the Committee of the Whole. The resolution reported out by the Committee on Rules seeks to waive that rule.

If a resolution reported out by the Committee on Rules can waive one rule of the House, why cannot the House by the adoption of a substitute resolution, which this is, waive other rules? I contend, Mr. Speaker, that this substitute for the resolution reported out by the Committee on Rules is just as germane and just as much in order as the actual resolution reported out by the Committee on Rules; they are similar. . . .

THE SPEAKER: The Chair is ready to rule.

The Chair agrees with a great deal that the gentleman from Pennsylvania and the gentleman from Colorado say about history, but that is not the question before the Chair to decide at this time.

It is a rule long established that a resolution from the Committee on Rules providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another and not germane subject or matter.

It is true that in Senate amendment No. 191 to the bill, which came from the Senate, there is a caption "Title VII," which states "Excess Profits Tax." But in the amendment which the Senate adopted to the House bill there is no excess-profit tax.

The Chair is compelled to hold under a long line of rulings that this matter, not being germane if offered to the Senate amendment it is not germane here. The Chair sustains the point of order.

Rejection of Previous Question

§ 18.32 A resolution providing a special order of business is open to germane amendment if the previous question is voted down.

On Sept. 15, 1961,[18] the yeas and nays had been ordered on the ordering of the previous question on a special order from the Committee on Rules (H. Res. 464, providing for consideration of H.R. 7927, to adjust postal rates and for other purposes). Speaker pro tempore John W. McCormack, of Massachusetts, answered a parliamentary inquiry on the effect of rejecting the previous question:

MR. [WILLIAM H.] AVERY [of Kansas]: If the motion for the previous question should be voted down at the appropriate stage of the proceedings, then it would be in order, would it not, to offer an amendment to the resolution before the House?

THE SPEAKER PRO TEMPORE: The gentleman is correct. The resolution would be open to amendment. . . .

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, will the gentleman yield for the purpose of offering an amendment to make this an open rule?

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[18] 107 CONG. REC. 19750–59, 87th Cong. 1st Sess.

Mr. [B. F.] Sisk [of California]: I do not yield for that purpose.

Mr. Speaker, I move the previous question.

Mr. Colmer: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. [Edward J.] Derwinski [of Illinois]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Derwinski: Mr. Speaker, since we are voting on ordering the previous question, a "no" vote in effect opens up the rule?

The Speaker Pro Tempore: If ordering the previous question is voted down, then the resolution is open for amendment or further debate.

The House then rejected the previous question, and adopted an amendment to the resolution providing that the bill be read for amendment under the five-minute rule and generally opening the bill up for amendment (the original resolution had allowed only committee amendments).(19)

On Oct. 8, 1968, Speaker pro tempore Wilbur D. Mills, of Arkansas, stated in response to a parliamentary inquiry that germane amendments could be offered to such a resolution if the previous question were voted down:

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Gerald R. Ford: If and when we get to the rule to which the gentleman from Indiana refers, would it be permissible to amend the rule to provide for the consideration of the clean elections bill, so that we can get that legislation on the floor?

The Speaker Pro Tempore: If such an amendment were germane to the matter, it could be considered.

Mr. Gerald R. Ford: A further parliamentary inquiry, Mr. Speaker.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Gerald R. Ford: If the previous question is defeated and the rule is opened up, could an amendment be made to the rule to provide in the rule for the consideration of the clean elections bill?

The Speaker Pro Tempore: If that amendment were germane to the resolution it would be in order to consider it, yes.(20)

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19. For some of the other occasions where the previous question has been voted down and special orders amended, see 116 Cong. Rec. 37834–42, 91st Cong. 2d Sess., Nov. 18, 1970; 105 Cong. Rec. 16404–06, 86th Cong. 1st Sess., Aug. 19, 1959; 90 Cong. Rec. 5465–73, 78th Cong. 2d Sess., June 7, 1944; and 86 Cong. Rec. 5035–46, 76th Cong. 3d Sess., Apr. 23, 1940.

20. 114 Cong. Rec. 30092, 90th Cong. 2d Sess.

§ 18.33 In response to parliamentary inquiries, the Speaker advised that if the previous question on a privileged resolution reported by the Committee on Rules were voted down, (1) the resolution would be open to further consideration, amendment, and debate; (2) a motion to table would be in order and would be preferential; and (3) the Chair would recognize, under the hour rule, the Member who appeared to be leading the opposition.

On Oct. 19, 1966,[1] the House had under consideration a privileged resolution from the Committee on Rules establishing a Select Committee on Standards and Conduct. Speaker John W. McCormack, of Massachusetts, answered inquiries on the procedure should the previous question be voted down on the resolution:

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. HAYS: Mr. Speaker, if the previous question is refused, is it true that then amendments may be offered and further debate may be had on the resolution?

THE SPEAKER: If the previous question is defeated, then the resolution is open to further consideration and action and debate.

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WAGGONNER: Mr. Speaker, under the rules of the House, is it not equally so that a motion to table would then be in order?

THE SPEAKER: At that particular point, that would be a preferential motion. . . .

MR. [JAMES G.] FULTON of Pennsylvania: Mr. Speaker, if the previous question is refused and the resolution is then open for amendment, under what parliamentary procedure will the debate continue? Or what would be the time limit?

THE SPEAKER: The Chair would recognize whoever appeared to be the leading Member in opposition to the resolution.

MR. FULTON of Pennsylvania: What would be the time for debate?

THE SPEAKER: Under those circumstances the Member recognized in opposition would have 1 hour at his disposal, or such portion of it as he might desire to exercise.

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[1] 112 CONG. REC. 27713, 27714, 27725, 89th Cong. 2d Sess.

For occasions where privileged resolutions reported from the Committee on Rules were laid on the table following rejection of the previous question, see 87 CONG. REC. 2182–89, 77th Cong. 1st Sess., Mar. 11, 1941; 83 CONG. REC. 9490–99, 75th Cong. 3d Sess., June 15, 1938; 81 CONG. REC. 3291–3301, 75th Cong. 1st Sess., Apr. 8, 1937; and 81 CONG. REC. 3283–90, 75th Cong. 1st Sess., Apr. 8, 1937.

MR. [CORNELIUS E.] GALLAGHER [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GALLAGHER: If the previous question is voted down we will have the option to reopen debate, the resolution will be open for amendment, or it can be tabled. Is that the situation as the Chair understands it?

THE SPEAKER: If the previous question is voted down on the resolution, the time will be in control of some Member in opposition to it, and it would be open to amendment or to a motion to table.

§ 18.34 A Member recognized to offer an amendment to a special order from the Committee on Rules following rejection of the previous question thereon controls one hour of debate in the House on the amendment.

On May 10, 1973,[2] the House rejected the previous question on House Resolution 389, reported from the Committee on Rules, waiving points of order during the consideration of a supplemental appropriations bill. Mrs. Patsy T. Mink, of Hawaii, who had opposed the ordering of the previous question in order to offer an amendment (to make in order, without points of order, a designated amendment to the bill) was recognized to offer an amendment. In response to her parliamentary inquiry, Speaker Carl Albert, of Oklahoma, stated that she would control one hour of debate on her amendment.

§ 18.35 The chairman of the legislative committee reporting a bill to the House led the fight against the type of resolution reported from the Committee on Rules providing for its consideration and led the fight against the ordering of the previous question on the resolution; when the previous question was voted down, he was recognized to offer an amendment to the resolution.

On June 16, 1970,[3] Mr. William M. Colmer, of Mississippi, called up, by direction of the Committee on Rules, House Resolution 1077, providing for the consideration of H.R. 17070, the Postal Reform Act of 1970, reported from the Committee on Post Office and Civil Service. The resolution provided that the committee amendment in the nature of a substitute printed in the bill be read as an original bill for amendment, but also provided that another bill be in order, without the intervention of points of order, as a substitute for the committee amendment. Thaddeus J. Dulski, of New York, Chairman of the Committee on Post Office and Civil Service, opposed the resolution as reported:

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[2] 119 CONG. REC. 15273–81, 93d Cong. 1st Sess.

[3] 116 CONG. REC. 19837–44, 91st Cong. 2d Sess.

> MR. DULSKI: Mr. Speaker, as I told the Committee on Rules when I requested a rule on H.R. 17070, I support the bill as it came from our committee. I asked that the bill, as reported, be considered as original text for the purpose of amendment.
>
> The rule now pending goes beyond my request and makes another bill in order which could thwart the bill of my committee. For that reason, I oppose the extension of the rule to the second bill.
>
> I believe we should revert to my original request for an open rule with 4 hours of general debate and waiving points of order.
>
> Accordingly, I urge that the previous question be voted down so that the rule can be amended.
>
> If the previous question is voted down, I shall offer the appropriate amendment to make consideration of our committee amendment to H.R. 17070 in order.
>
> I am supported in this proposal by at least 15 other Members of the Post Office and Civil Service Committee, on both sides of the aisle, who have joined me in an open letter to the entire membership of the House.

When the previous question was voted down on the resolution, Speaker pro tempore Carl Albert, of Oklahoma, recognized Mr. Dulski to offer an amendment to the resolution, which amendment struck out the provision allowing the designated bill to be offered as a substitute to the committee amendment and waiving points of order against the designated bill. The House agreed to the amendment and to the resolution as amended.

§ 18.36 Instances where the previous question has been voted down on special orders reported by the Committee on Rules and such special orders amended.

On June 7, 1944, the House voted down the previous question on a resolution reported from the Committee on Rules, providing for the consideration of a bill, and amended the resolution by striking out a provision therein which would have made in order sections or paragraphs of another bill as amendments to the bill for which the resolution provided consideration.(4)

On Aug. 19, 1959, a resolution from the Committee on Rules making in order the consideration of a bill was amended to waive points of order against the bill.(5)

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4. 90 CONG. REC. 5465-73, 78th Cong. 2d Sess.
5. 105 CONG. REC. 16404-06, 86th Cong. 1st Sess.

On Sept. 15, 1961, the House defeated a motion for the previous question on a resolution providing for the consideration of a bill and permitting only amendments offered by direction of the Committee on Post Office and Civil Service and adopted an amendment to the resolution providing that the bill be read for amendment under the five-minute rule, and opening the bill generally for amendment.(6)

On June 16, 1970, the Chairman of the Committee on Post Office and Civil Service, Thaddeus J. Dulski, of New York, led the fight against the previous question on a resolution from the Committee on Rules providing for the consideration of a bill reported from his committee. The previous question having been voted down, Mr. Dulski offered an amendment to the resolution (striking out the provision therein making a specific bill in order as a substitute for the committee amendment in the nature of a substitute) and the House adopted the amendment.(7)

On another occasion (Nov. 18, 1970) the House defeated the previous question on a resolution providing a "closed" rule for H.R. 18970 (to amend the U.S. tariff and trade laws, reported from the Committee on Ways and Means) and considered an amendment to the resolution, offered by Mr. Sam M. Gibbons, of Florida, to permit reading the bill by titles and permitting motions to strike matter in the bill. After the previous question had been ordered on the amendment and the resolution, the House rejected the amendment and finally agreed to the resolution as reported from the Committee on Rules.(8)

On May 10, 1973, the previous question was rejected on House Resolution 389, a special order reported from the Committee on Rules waiving points of order (under Rule XXI clauses 2 and 5) during the consideration of H.R. 7447, a general appropriation bill containing supplemental appropriations for fiscal 1973. Mrs. Patsy T. Mink, of Hawaii, opposed the ordering of the previous question in order to offer an amendment to the resolution, and the previous question was rejected. Mrs. Mink offered an amendment to the resolution to specifically make in order an amendment to the bill which constituted legislation on an appropriation bill (and waiving all points of order against the specified amendment). The House adopted the amendment to the resolution.[9]

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(6) 107 Cong. Rec. 19750–59, 87th Cong. 1st Sess.

(7) 116 Cong. Rec. 19837–44, 91st Cong. 2d Sess.

(8) *Id.* at pp. 37834–42.

On June 13, 1973, there was pending before the House House Resolution 437, reported from the Committee on Rules, providing for the consideration of H.R. 8410, for a temporary increase in the public-debt limitation (this was the first occasion in many years where the Committee on Rules had reported an "open" rule, permitting floor amendments, to a public-debt limit bill). The resolution as reported contained a provision making in order, without the intervention of any point of order, an amendment consisting of a designated bill, already passed by the House, which was not germane to H.R. 8410. The House rejected the previous question and adopted an amendment, offered by Mr. John B. Anderson, of Illinois, which was an amendment in the nature of a substitute for the resolution and which eliminated the waiver of points of order against the text of the designated bill if offered as an amendment to the bill.[10]

Postponing Consideration

§ 18.37 Under Rule XI clause 23, the calling up of a resolution reported from the Committee on Rules is a matter of high privilege, and when consideration has begun and the resolution is under debate, the House can postpone further consideration and proceed to other business only by unanimous consent.

On Oct. 29, 1969, Mr. John A. Young, of Texas, called up, by direction of the Committee on Rules, a special order providing for the consideration of a bill. After consideration had begun and the resolution was under debate, Mr. Young asked unanimous consent "that further consideration of this resolution be postponed until tomorrow." The House agreed to the request.[11]

Parliamentarian's Note: A privileged resolution called up in the House may be withdrawn from consideration before action thereon, and if the resolution is later reoffered, debate under the hour rule begins anew. But if the House desires to use part of the hour's debate on one day and resume consideration on the next, it may by unanimous consent postpone further consideration or, if there is no further business or special orders to follow, it may simply adjourn so that the resolution would become unfinished business on the following day.

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[9] 119 Cong. Rec. 15273–81, 93d Cong. 1st Sess.

[10] *Id.* at pp. 19337–45.

[11] 115 Cong. Rec. 32076–83, 91st Cong. 1st Sess.

Rule XI clause 23 is now Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979).

Recommitting Resolution

§ 18.38 A motion to recommit a special rule to the Committee on Rules after the previous question is ordered thereon is not in order.

On Feb. 2, 1955,(12) the previous question was ordered on a resolution from the Committee on Rules (authorizing an investigation). Mrs. Edith Nourse Rogers, of Massachusetts, sought to offer a motion to recommit the resolution, but Speaker Sam Rayburn, of Texas, ruled that "Under the rules, a motion to recommit a resolution from the Committee on Rules is not in order."

On July 23, 1942,(13) there was pending before the House a resolution, on which the previous question had been ordered, reported from the Committee on Rules providing for the consideration of a bill. Speaker Sam Rayburn, of Texas, ruled that a motion to recommit the resolution was not in order:

> MR. [JOHN E.] RANKIN of Mississippi: Mr. Speaker, I offer a motion to recommit.
>
> THE SPEAKER: The Chair will allow the motion to be read for the Record. Of course, a motion to recommit to the Committee on Rules is not in order.
>
> MR. RANKIN of Mississippi: I would like to be heard on that.
>
> THE SPEAKER: The Chair has already ruled. For the Record the Clerk will report the motion.
>
> The Clerk read as follows:
>
> > Mr. Rankin of Mississippi moves to recommit the rule to the Committee on Rules.
>
> THE SPEAKER: The Chair holds that the motion is not in order.
>
> The question is on agreeing to the resolution.

Parliamentarian's Note: A resolution from the Committee on Rules may be recommitted by unanimous consent.(14)

Relevancy in Debate

§ 18.39 Debate on a special rule which only provides special procedures during the consideration of a bill (which is privileged for

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12. 101 CONG. REC. 1076-79, 84th Cong. 1st Sess.

13. 88 CONG. REC. 6544, 77th Cong. 2d Sess.

14. See 97 CONG. REC. 11394-98, 82d Cong. 1st Sess., Sept. 14, 1951.

consideration under the general rules of the House) is limited to the merits of such procedures.

On June 20, 1935,[15] the House had under discussion House Resolution 226, waiving points of order against a general appropriation bill and providing not to exceed two hours of general debate on the bill in Committee of the Whole. In response to repeated points of order, Speaker Joseph W. Byrns, of Tennessee, ruled on relevancy in debate on a special order:

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, I make the point of order that where the rule under consideration changes the general rules of debate on an appropriation bill, anything that is pertinent to any part of that rule is legitimate in debate in consideration of the rule.

THE SPEAKER: The Chair thinks the gentleman from Texas is correct, but the gentleman must confine himself to the resolution before the House and not discuss extraneous matters.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, in this connection, not only the resolution but the bill referred to in the resolution can be discussed, I maintain.

MR. [BERTRAND H.] SNELL [of New York]: The Speaker has ruled on the question.

MR. [EARL C.] MICHENER [of Michigan]: In that connection I may say that while sometimes we permit such discussion, it is subject to a point of order.

MR. O'CONNOR: Mr. Speaker, I maintain that when a rule is brought in for the consideration of a bill that in discussing the rule it is permissible also to discuss the subject matter of the bill referred to in the rule.

THE SPEAKER: The Chair thinks that the question now under debate is whether there shall or shall not be general debate on the bill. While this debate may involve certain features or provisions of the bill, the Chair does not think it would justify a Member discussing extraneous matter. Discussion on the resolution now before the House applies only to the question of whether there shall be general debate on the bill. This would not authorize a Member to discuss matters which are not germane to the resolution. . . .

MR. BLANTON: Mr. Speaker, I make the point of order that when debating a rule that would do away with general debate, which but for the rule would be in order, and general debate means discussion of every subject on the face of the globe, all reasons for eliminating general debate are pertinent and in order, and takes in a subject as broad as the universe, and the gentleman certainly can discuss all such reasons.

THE SPEAKER: The Chair thinks that any discussion which undertakes to justify or otherwise the question as to whether or not general debate shall be confined to the bill is legitimate, and the Chair so rules, and hopes that the gentleman from Ohio will proceed in order, as the Chair believes he will.

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[15] 79 CONG. REC. 9783, 9784, 74th Cong. 1st Sess.

Mr. [Byron B.] Harlan [of Ohio]: Mr. Speaker, following the statement of the gentleman from Massachusetts to the effect that the United States had gone in retrograde nine points in the last 2 years, I asked the gentleman his authority for the statement. He said he saw it in the newspapers some place.

Mr. Snell: Mr. Speaker, I make the point of order that the gentleman from Ohio is not following the decision of the Chair, and I respectfully submit the question to the Chair.

Mr. Harlan: Mr. Speaker, I am tracing this propaganda down to its source to show that the time of general debate in this particular instance was used for no other purpose than to start rumors, propaganda, and shake confidence.

The Speaker: The Chair does not think that propaganda has anything to do with the discussion of the rules under consideration. The Chair may say to the gentleman from Ohio that he should confine himself—and the Chair hopes he will—to a discussion of whether or not it is proper for the House to confine general debate to the bill or whether general debate should be opened to a discussion of all subjects.

Parliamentarian's Note: Although the resolution made in order a motion to resolve into Committee of the Whole for consideration of the bill, general appropriation bills were and are privileged for consideration, and that portion of the resolution was technically unnecessary. Where a special rule provides for the consideration of a measure which is not otherwise privileged, a broader test of relevancy in debate on the resolution is applied.

§ 18.40 In discussing a special rule, the terms of which restrict general debate on a bill to a specified time, it is in order to show by way of illustration the futility of general debate but such discussion may not be broadened to include a reply to a speech made at some other time in general debate.

On June 20, 1935,(16) relevancy in debate on a special order was the subject of several points of order and rulings by Speaker Joseph W. Byrns, of Tennessee. The Speaker made the following statement:

The Speaker: The gentleman from Ohio [Mr. Harlan] will please suspend while the Chair makes this statement: It has always been the custom heretofore in discussing resolutions making in order matters of legislation for Members to be rather liberal in their discussions and not necessarily to confine themselves to the pending resolution.

The Chair thinks that discussion on these rules should not be too narrowly

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16. 79 Cong. Rec. 9783, 9784, 74th Cong. 1st Sess.

restricted. Of course, under the precedents, a Member must confine himself to the subject of debate when objection is raised. The pending resolution is one which undertakes to limit general debate upon the deficiency bill to 2 hours and to confine the debate to the bill itself. The Chair thinks it is entirely too narrow a construction to undertake to hold a Member, in discussing the resolution either pro or con, to the simple question of whether or not the rule should be adopted, and that it is entirely legitimate discussion for a Member who is undertaking to uphold the rule and to justify confining debate to the bill to cite as illustrations what has occurred in previous discussions. The Chair does not think a Member, in using such illustrations, is justified in answering a speech that has been made upon a previous occasion. However, the Chair repeats that the Chair does think it is perfectly legitimate for a Member who is undertaking to justify the rule to refer to experiences on previous occasions where the debate was not limited to the bill, and the Chair hopes that the gentleman from Ohio will proceed in order.

Withdrawing Resolution

§ 18.41 A Member calling up a privileged resolution reported from the Committee on Rules withdrew the resolution after debate thereon and later, after intervening business, called up the resolution again.

On Apr. 8, 1964,(17) there was being debated in the House a special order from the Committee on Rules called up by Mr. Richard Bolling, of Missouri. During debate thereon, a recess was declared to await the engrossed copy of a bill and at the conclusion of the recess Speaker John W. McCormack, of Massachusetts, announced the unfinished business to be the reading of the engrossed bill. When objection was made that the unfinished business was the special order pending at the time of the recess, Mr. Bolling withdrew the resolution from consideration.(18)

§ 18.42 A Member calling up a privileged resolution from the Committee on Rules is recognized for a full hour notwithstanding the fact that he had previously called up the resolution and, after debate, had withdrawn it.

On Apr. 8, 1964,(19) Mr. Richard Bolling, of Missouri, called up by

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17. 110 Cong. Rec. 7303, 7304, 7308, 88th Cong. 2d Sess.
18. For another occasion where a special order was withdrawn after being called up, see 110 Cong. Rec. 2001, 2002, 88th Cong. 2d Sess., Feb, 5, 1964.
19. 110 Cong. Rec. 7303, 7304, 7308, 88th Cong. 2d Sess.

direction of the Committee on Rules a resolution providing for the consideration of a bill. During debate on the resolution, Speaker John W. McCormack, of Massachusetts, declared a recess for the purpose of awaiting the engrossed copy of a bill already passed. At the conclusion of the recess the Speaker stated the unfinished business to be the reading of the engrossed copy of the bill and Mr. Oliver P. Bolton, of Ohio, inquired whether the unfinished business was not the special order previously called up by Mr. Bolling. Thereupon, Mr. Bolling withdrew such resolution. In response to a parliamentary inquiry, the Speaker stated that when the special order was again called up by Mr. Bolling, he would again be recognized for one hour.

Division of the Question

§ 18.43 A report from the Committee on Rules waiving the requirements of a two-thirds vote for consideration on the same day reported from that committee, making in order motions to suspend the rules during the remainder of the session, and making privileged a motion for a recess, was held to provide a special order of business and therefore not to be divisible for a separate vote.

On June 1, 1934,[20] Speaker Henry T. Rainey, of Illinois, ruled as follows on the divisibility, under Rule XVI clause 6, of a resolution reported from the Committee on Rules:

HOUSE RESOLUTION 410

Resolved, That during the remainder of the second session of the Seventy-third Congress it shall be in order for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII; it shall also be in order at any time during the second session of the Seventy-third Congress for the majority leader to move that the House take a recess, and said motion is hereby made of the highest privilege; and it shall also be in order at any time during the second session of the Seventy-third Congress to consider reports from the Committee on Rules, as provided in clause 45, rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during the remainder of this session of Congress.

During the reading of the resolution the following occurred:

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, I make a point of order.

THE SPEAKER: The gentleman will state it.

MR. MAPES: I ask for a division of the resolution.

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[20] 78 CONG. REC. 10239-41, 73d Cong. 2d Sess.

THE SPEAKER: The resolution cannot be divided under the rule. The point of order is overruled.

MR. MAPES: Will the Speaker listen to a statement on that for a moment? My point of order is that there are three distinct substantive propositions in this resolution, and I ask for a division of the resolution.

THE SPEAKER: The Chair will read the rule. The rule states:

> Any motion or resolution to elect the members or any portion of the members of the standing committees of the House and the joint standing committees shall not be divisible, nor shall any resolution or order reported by the Committee on Rules providing a special order of business be divisible.

The point of order is overruled.

The Speaker then heard further argument on the point of order by Mr. Mapes, who cited past precedents in support of his position and argued that the resolution was "not a rule from the Committee on Rules providing for a special order of business" but a report from the Committee on Rules "to change the rules in a very substantive manner."

The Speaker ruled as follows:

The matter is perfectly clear. This rule was first adopted in 1789 and it was amended in 1837. The gentleman may find a number of precedents along the line he is discussing, which were made prior to the Seventy-third Congress. This rule, however, was amended last on May 3, 1933, by including this language:

> Nor shall any resolution or order reported by the Committee on Rules, providing a special order of business be divisible.

This amendment to the rule was made for the express purpose of reaching the question which the gentleman now propounds, as will be clearly shown by the debates which occurred when the amendment to the rule was discussed. The point of order is overruled.

Discharging Committee on Rules From Special Order

§ 18.44 Under the provisions of the discharge rule (Rule XXVII clause 4), a motion may be considered to discharge the Committee on Rules from the further consideration of a resolution providing for the consideration of a bill pending in another standing committee.

On Apr. 12, 1937,[1] a motion was offered to discharge the Committee on Rules from the further consideration of a resolution providing an order of business for a bill pending in another committee; Speaker William B. Bankhead, of Alabama, overruled a point of order against the motion to discharge:

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[1] 81 CONG. REC. 3382-87, 75th Cong. 1st Sess.

Mr. [Joseph A.] Gavagan [of New York]: Mr. Speaker, I call up Calendar No. 1 on the Calendar of Motions to Discharge Committees, being motion no. 5, signed by 218 Members of the House, to discharge the Committee on Rules from further consideration of House Resolution 125.

The Speaker: The Clerk will report the resolution by title.

The Clerk read as follows:

House Resolution 125

> A resolution to make H.R. 1507, a bill to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching, a special order of business.

The Speaker: The gentleman from New York will be recognized for 10 minutes and the gentleman from New York [Mr. O'Conner], if he desires, will be recognized for 10 minutes in opposition to the resolution. . . .

The time of the gentleman from Illinois has expired. All time has expired.

The question is on the motion to discharge the Committee on Rules from further consideration of the resolution.

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, a point of order.

The Speaker: The gentleman from Mississippi will state his point of order.

Mr. Rankin: Mr. Speaker, this measure is not before the Committee on Rules; this measure is before the Committee on the Judiciary. This is a petition to discharge the Committee on the Judiciary. I make the point of order that we have no right to vote to discharge the Committee on Rules from a measure that has never been before the Committee on Rules, and that they have not had the time provided under the rules to consider.

The Speaker: Has the gentleman from Mississippi concluded his point of order?

Mr. Rankin: Yes, Mr. Speaker.

The Speaker: The Chair is prepared to rule upon the point of order.

The gentleman from Mississippi raises the point of order that inasmuch as the legislative bill governing this subject has not been considered by the Committee on Rules, the motion now pending is out of order. If the gentleman from Mississippi will refer to the rules with reference to the discharge of committees he will find that the form and procedure adopted by those who signed the discharge petition are specifically and unequivocally provided and that they have been scrupulously followed.

The Chair is of opinion that under that rule this resolution to discharge the Committee on Rules is in order, and the Chair overrules the point of order made by the gentleman from Mississippi.

Parliamentarian's Note: Rule XXVII clause 4, provides not only for a motion to discharge a committee from the consideration of a bill or resolution not acted on in 30 legislative days, but specifically provides that it shall also be in order to move, after seven legislative days, to discharge the Committee on Rules from further consideration of any resolution providing either a special order of business, or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee 30 days or more without action.

Since the Committee on Rules originates, without their introduction, special orders, the Member seeking to discharge the committee from the consideration of a special order should introduce the resolution in order that it may be referred to the committee.

It should further be noted that the Speaker has ruled that the motion to discharge provided for in Rule XXVII clause 4, as related to matters pending before the Committee on Rules, is limited to the special orders specified in the rule, and that the committee could not be discharged from the further consideration of a resolution creating a select committee in the House.(2)

§ 18.45 The House has agreed to discharge the Committee on Rules from the further consideration of a special order.

On June 13, 1932, the House agreed to a motion, offered by Mr. Wright Patman, of Texas, to discharge the Committee on Rules from the further consideration of House Resolution 220. The resolution provided a special order of business for the consideration of H.R. 7726, adversely reported from the Committee on Ways and Means, which provided for the immediate payment to veterans of the face value of their adjusted-service certificates. Following the adoption of the motion the House agreed to the resolution and proceeded to its execution on the following day (the resolution so providing).(3)

On May 11, 1936, Mr. William Lemke, of North Dakota, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 123, providing for the consideration of H.R. 2066, pending before the Committee on Agriculture, to liquidate and refinance existing agricultural indebtedness and for other purposes. The House agreed to the motion and resolution and proceeded to its execution on the following day, pursuant to the direction in the special order.[4]

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(2) 78 Cong. Rec. 7161–63, 73d Cong. 2d Sess., Apr. 23, 1934.

(3) 75 Cong. Rec. 12844–55, 72d Cong. 1st Sess.

On Apr. 12, 1937, Mr. Joseph A. Gavagan, of New York, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 125, making a special order of business for H.R. 1507, pending in the Committee on the Judiciary, which bill assured the equal protection of laws and punished the crime of lynching. The House agreed to the motion and then to the resolution and proceeded to its execution on the following day, pursuant to the provisions of the resolution.[5]

On Dec. 13, 1937, Mrs. Mary T. Norton, of New Jersey, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 312, providing for the consideration of S. 2475 (pending in the Committee on Labor), to provide for the establishment of fair labor standards. The House agreed to the motion and to the resolution.[6]

On May 23, 1938, the House agreed to a motion to discharge the Committee on Rules from House Resolution 478, providing for the consideration of S. 2475, before the Committee on Labor, establishing fair labor standards, and then agreed to the resolution.[7]

On May 13, 1940, Mr. John E. Rankin, of Mississippi, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 444, providing for the consideration of H.R. 9000, to provide more adequate compensation for certain dependents of World War veterans, which bill was pending before the Committee on World War Veterans' Legislation. The House agreed to the motion and then to the resolution and proceeded to its execution.[8]

Also on Sept. 22, 1942, the Committee on Rules was discharged from the further consideration of House Resolution 110, providing for the consideration of H.R. 1024, to amend "an act to prevent pernicious political activities." The resolution was then agreed to.[9]

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[4] 80 Cong. Rec. 7025–27, 74th Cong. 2d Sess.

[5] 81 Cong. Rec. 3382–87, 75th Cong. 1st Sess.

[6] 82 Cong. Rec. 1385–89, 75th Cong. 2d Sess.

[7] 83 Cong. Rec. 7274–79, 75th Cong. 3d Sess.

[8] 86 Cong. Rec. 5973–75, 76th Cong. 3d Sess.

On May 24, 1943, the Committee on Rules was discharged from the further consideration of House Resolution 131, providing for the consideration of a bill pending before the Committee on the Judiciary, H.R. 7, making unlawful the requirement for a poll tax as a prerequisite to voting. The House agreed to the resolution.[10]

On June 11, 1945, Mr. Vito Marcantonio, of New York, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 139, providing for the consideration of H.R. 7, pending before the Committee on the Judiciary, which bill made unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officials. The motion was agreed tc and the House then agreed to the resolution. Pursuant to the provisions of the resolution, the House resolved itself into the Committee of the Whole on the following day for the consideration of the bill.[11]

On Aug. 9, 1954, the House agreed to a motion to discharge the Committee on Rules from the consideration of House Resolution 590, providing for the consideration of H.R. 9245 (before the Committee on Post Office and Civil Service) to establish a joint congressional committee to make studies and recommendations in respect to the postal service.[12]

On July 22, 1957, the House agreed to a motion to discharge the Committee on Rules from the consideration of House Resolution 249, providing for the consideration of H.R. 2474 (pending in the Committee on Post Office and Civil Service) to increase certain rates of compensation in the postal service.[13]

On June 15, 1960, the House agreed to House Resolution 537, providing for the consideration of H.R. 9883, to adjust rates of compensation for federal officials and employees (pending before the

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[9] 88 Cong. Rec. 7310, 7311, 77th Cong. 2d Sess.

[10] 89 Cong. Rec. 4807-13, 78th Cong. 1st Sess.

[11] 91 Cong. Rec. 5892-96, 79th Cong. 1st Sess.

[12] 100 Cong. Rec. 13736-40, 83d Cong. 2d Sess.

[13] 103 Cong. Rec. 12332-35, 85th Cong. 1st Sess.

Committee on Post Office and Civil Service). The resolution had been brought before the House by way of a motion to discharge the Committee on Rules from its further consideration.(14)

On Sept. 27, 1965, Mr. Abraham J. Multer, of New York, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 515, making in order the consideration and providing for the motion of consideration of H.R. 4644, pending before the Committee on the District of Columbia, which bill provided an elected Mayor, City Council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes. The House agreed to the motion and then to the resolution and proceeded to its execution by resolving into the Committee of the Whole for general debate on the bill.(15)

Considering Motion to Discharge Committee on Rules

§ 18.46 If a motion to discharge the Committee on Rules from the further consideration of a special order is agreed to, the resolution is read by the Clerk and the question immediately occurs, without debate or other intervening motion, on agreeing to the resolution.

On Sept. 27, 1965,(16) Mr. Abraham J. Multer, of New York, called up motion No. 5, on the Discharge Calendar, to discharge the Committee on Rules from the further consideration of House Resolution 515, providing for the consideration of H.R. 4644, a "home rule" bill for the District of Columbia. Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries on the procedure for consideration of the resolution should the motion to discharge be adopted:

> THE SPEAKER: The Chair will state that under the rule on the question of discharge there is 20 minutes, 10 minutes to the side, and that will close debate on the motion. The House will then vote on the adoption of House Resolution 515 without debate or other intervening motions.
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> MR. SMITH of Virginia: And, as I understand it, then there will be no opportunity to discuss the resolution itself on which we are about to vote?

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14. 106 CONG. REC. 12691–93, 86th Cong. 2d Sess.
15. 111 CONG. REC. 25180–25186, 89th Cong. 1st Sess.
16. 111 CONG. REC. 25180, 25181, 89th Cong. 1st Sess.

THE SPEAKER: Not under the standing rules of the House.

MR. SMITH of Virginia: Now, Mr. Speaker, a further parliamentary inquiry. Will it be in order to move the previous question on the resolution?

THE SPEAKER: The Chair will state that under the rules of the House in a matter of this kind there is no debate and the previous question will not be in order.(17)

Parliamentarian's Note: Rule XXVII clause 4 specifically provides that if the motion to discharge prevails to discharge the Committee on Rules from any resolution, the House shall immediately vote on the adoption of the resolution, without intervening motion except to adjourn, and if the resolution is adopted immediately proceed to its execution.

§ 18.47 In response to a parliamentary inquiry, the Speaker advised that debate on a motion to discharge the Committee on Rules from further consideration of a special order is limited to 20 minutes—10 minutes under control of the Member recognized to call up the motion and 10 minutes under control of a Member recognized in opposition.

On Sept. 27, 1965,(18) there was pending before the House a motion offered by Mr. Abraham J. Multer, of New York, to discharge the Committee on Rules from the further consideration of House Resolution 515, making in order the consideration and providing for the method of consideration of H.R. 4644, a "home rule" bill pending before the Committee on the District of Columbia. Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries as to the debate on the motion:

MR. [HOWARD W.] SMITH of Virginia: Now, Mr. Speaker, that resolution waives points of order. There are grave points of order in the bill that is to be recognized. The question I want to ask is whether there will be an opportunity in debate on the rule to advise the House of the facts that it does waive the points of order and that there are points of order with which the House ought to be made familiar.

THE SPEAKER: The Chair will state that under the rule on the question of discharge there is 20 minutes, 10 minutes to the side, and that will close debate on the motion. The House will then vote on the adoption of House Resolution 515 without debate or other intervening motions.

MR. SMITH of Virginia: And, as I understand it, then there will be no op-

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17. See also 91 CONG. REC. 5892–96, 79th Cong. 1st Sess., June 11, 1945; and 86 CONG. REC. 5973–75, 76th Cong. 3d Sess., May 13, 1940.

18. 111 CONG. REC. 25180, 25181, 89th Cong. 1st Sess.

portunity to discuss the resolution itself on which we are about to vote?

THE SPEAKER: Not under the standing rules of the House.

Pursuant to Rule XXVII, the Speaker recognized, for debate on the motion to discharge, Mr. Multer for 10 minutes in favor of the motion and John L. McMillan, of South Carolina (the Chairman of the Committee on the District of Columbia) for 10 minutes in opposition to the motion.

§ 18.48 When a motion to discharge the Committee on Rules from the further consideration of a special order is called up, the chairman of the committee is not entitled to recognition for the purpose of debate unless he is opposed to the motion.

On Dec. 13, 1937,(19) where there was pending before the House a motion to discharge the Committee on Rules from the further consideration of a special order, Speaker William B. Bankhead, of Alabama, answered parliamentary inquiries on recognition in opposition to the motion:

MR. [MARTIN] DIES [Jr., of Texas]: Mr. Speaker, under the rules of the House, as I understand, 20 minutes is to be allowed to a discussion of whether or not the Rules Committee will be discharged, 10 minutes to the proponents and 10 minutes to the opponents. As a member of the committee, I ask for recognition and for the 10 minutes in opposition to the discharge of the committee.

MR. [JOHN J.] O'CONNOR of New York: Mr. Speaker, in connection with the parliamentary inquiry, may I say that heretofore on all motions to discharge the Rules Committee the chairman of the Rules Committee has been recognized for the 10 minutes in opposition to the motion, and that irrespective of whether he personally was opposed to the motion.

I appreciate the exact language of the rule, but I recall the precedents of the bonus bills on several occasions, the Frazier-Lemke bill, and the antilynching bill. Of course, if the Speaker is going to rule that under a strict compliance with the discharge rule that anybody recognized for the second 10 minutes must be opposed to the motion to discharge, I may say to my colleague from Texas on the Rules Committee that, as he well knows, I have always been in favor of the wage and hour bill. I have made speeches in favor of such a bill on the floor of this House, in the Democratic caucus, and publicly. . . .

THE SPEAKER: In answer to the parliamentary inquiry of the gentleman from Texas [Mr. Dies], a member of the Rules Committee, the Chair thinks it proper to read the rule in connection with this matter of the control of time so there may be no confusion about the interpretation of the rule:

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(19) 82 CONG. REC. 1385, 1386, 75th Cong. 2d Sess.

> When any motion under this rule shall be called up, the bill or resolution shall be read by title only. After 20 minutes' debate, one-half in favor of the proposition and one-half in opposition thereto, the House shall proceed to vote on the motion to discharge.

The Chair recalls that on some former occasions the Chairman of the Rules Committee has been recognized in opposition to the motion; but in view of the fact that the gentleman from Texas has asked an interpretation of the rule and proposes himself to qualify in opposition to the rule, and in view of the statement of the gentleman from New York [Mr. O'Connor], the chairman of the Rules Committee, that he cannot qualify in opposition, the Chair feels impelled to rule that if someone desires to be recognized who qualifies in opposition to the rule, he should be recognized under the provisions of the rule.

§ 18.49 The House having agreed to a resolution discharging the Committee on the District of Columbia from further consideration of a bill, the Speaker designated the chairman of that committee to control time in opposition to the bill during consideration in the Committee of the Whole.

On Sept. 27, 1965,(20) the House agreed to a motion, called up by Mr. Abraham J. Multer, of New York, to discharge the Committee on Rules from the further consideration of House Resolution 515, providing for the consideration of H.R. 4644 (to provide an elected Mayor, City Council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes). The question was put on the resolution and it was agreed to. Pursuant to the language of the resolution, which specified that general debate on the bill in Committee of the Whole be equally divided and controlled by one of several Members designated in the bill and in favor of the bill and "a Member who is opposed to the bill to be designated by the Speaker," Speaker John W. McCormack, of Massachusetts, designated John L. McMillan, of South Carolina, Chairman of the Committee on the District of Columbia, to control the time in opposition to the bill.

§ 18.50 The motion to lay on the table a resolution providing a special order of business, taken away from the Committee on Rules through the operation of the discharge rule, is not in order.

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20. 111 Cong. Rec. 25185, 25186, 89th Cong. 1st Sess.

On June 11, 1945,[1] the House agreed to a motion to discharge the Committee on Rules from the further consideration of a special order of business, providing for the consideration of a public bill pending in the Committee on the Judiciary. Pursuant to Rule XXVII, Speaker Sam Rayburn, of Texas, put the question on the adoption of the resolution. Mr. John E. Rankin, of Mississippi, sought to move to lay the resolution on the table, but the Speaker advised that the motion was not in order.

§ 18.51 The Speaker stated in response to a parliamentary inquiry that the motion for the previous question may not be applied to a resolution from the Committee on Rules brought up under a motion to discharge since the resolution itself is not debatable under the rule.

On Sept. 27, 1965,[2] there was pending before the House a motion to discharge the Committee on Rules from the further consideration of a special order providing for the consideration of a public bill pending before another standing committee. Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries on the procedure for consideration of the resolution should the motion to discharge be adopted:

The Speaker: The Chair will state that under the rule on the question of discharge there is 20 minutes, 10 minutes to the side, and that will close debate on the motion. The House will then vote on the adoption of House Resolution 515 without debate or other intervening motions.

Mr. [Howard W.] Smith of Virginia: And as I understand it, then there will be no opportunity to discuss the resolution itself on which we are about to vote?

The Speaker: Not under the standing rules of the House.

Mr. Smith of Virginia: Now, Mr. Speaker, a further parliamentary inquiry. Will it be in order to move the previous question on the resolution?

The Speaker: The Chair will state that under the rules of the House in a matter of this kind there is no debate and the previous question will not be in order.

Twenty-one Day Discharge Rule

§ 18.52 The 90th Congress deleted from the rules of the House the "21-day" rule, providing for discharge of certain Committee on Rules resolutions, which rule had been included in the rules of the 89th Congress (as a modification

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[1] 91 Cong. Rec. 5892-96, 79th Cong. 1st Sess.

[2] 111 Cong. Rec. 25180, 25181, 89th Cong. 1st Sess.

of the rule in effect in the 81st Congress).

On Jan. 10, 1967, Carl Albert, of Oklahoma, the Majority Leader, offered House Resolution 7, adopting as the rules of the House those rules in effect in the 89th Congress. The House rejected the previous question and subsequently adopted the resolution with an amendment deleting from the rules the "21-day" discharge rule contained in Rule XI clause 23 of the 89th Congress.(3)

In the 89th Congress, the House had adopted House Resolution 8, offered by Mr. Albert, which amended Rule XI clause 23 to reinstate the 21-day rule in effect in the 81st Congress, with modifications:

> . . . In rule XI, strike out clause 23 and insert:
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> "23. The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when ordered reported by the committee. If such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the Member making the report within seven legislative days thereafter, any member of the Committee on Rules may call it up as a question of privilege and the Speaker shall recognize any member of the Committee on Rules seeking recognition for that purpose. If the Committee on Rules shall adversely report or fail to report within twenty-one calendar days after reference, any resolution pending before the committee providing for an order of business for the consideration by the House of any public bill or joint resolution favorably reported by a committee of the House, on days when it is in order to call up motions to discharge committees, it may be in order as a matter of the highest privilege for the Speaker, in his discretion, to recognize the chairman or any member of the committee which reported such bill or joint resolution who has been so authorized by said committee to call up for consideration by the House the resolution which the Committee on Rules has so adversely reported, or failed to report, and it shall be in order to move the adoption by the House of said resolution adversely reported, or not reported, notwithstanding the adverse report, or the failure to report, of the Committee on Rules. Pending the consideration of said resolution the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said resolution shall have been fully disposed of."(4)

Mr. Albert and Speaker John W. McCormack, of Massachusetts, dis-

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3. 113 Cong. Rec. 28-33, 90th Cong. 1st Sess.

4. 111 Cong. Rec. 21-25, 89th Cong. 1st Sess., Jan 10, 1965.

cussed the purpose of the 21-day rule:

> Mr. Albert: Mr. Speaker, this resolution, if adopted, would restore the 21-day rule which was in effect during the 81st Congress, with some modifications.
>
> Mr. Speaker, it would enable the Speaker, after a resolution had been before the Committee on Rules for 21 days or more, to recognize the chairman or other members of the legislative committee from which the bill emanated to discharge the Committee on Rules on a day set aside for discharging committees. . . .
>
> The purpose of these two changes in the rules, of course, is to expedite the business of the House and to make available other methods of handling the legislative business of the House. They do not seek to change any of the rules governing the Committee on Rules or other procedures, all of which are left intact. . . .
>
> Mr. McCormack: Mr. Speaker, as this resolution involves changes in the rules, I feel that my views should be made known to the Members of the House. I strongly favor the resolution offered by the gentleman from Oklahoma [Mr. Albert]. I think the 21-day rule is a rule that is for the benefit of the individual Members of the House without regard to party affiliation in giving them the opportunity of passing upon legislation that has been reported out of a standing committee. Some Members may construe it as an attack on the Committee on Rules, but it is not. It is a strengthening of the rules of the House in the direction of the individual Member having an opportunity to pass upon legislation that has been reported out of a standing committee and which has been pending before the Committee on Rules for 21 days or more. We had this rule some few Congresses ago for one Congress. The reason it was not continued is simply and frankly that we did not have the votes. When it was adopted, it was not adopted as a permanent part of the rules but for one Congress. In following Congresses we did not have the votes. So it is not a question whether the advocates of the 21-day rule felt that it was not workable. I have always felt throughout the years that it would be a strengthening influence not only on the rules of the House but on each Member of the House and on the House collectively in the matter of expressing the will of the House to have the 21-day rule incorporated as a part of the rules of the House.

Parliamentarian's Note: As the "21-day" rule is no longer in effect, the following principles as to the use of that rule are included for their historical significance.

A Member calling up a resolution under the 21-day rule was recognized for one hour and could yield to other Members in his discretion; he was not bound by the customary practice of the Committee on Rules that one-half of the time be yielded to the minority.(5) But Members calling up such resolutions did on occasion yield half of the time to the minority.(6) Where the Member calling up a resolution under the rule did not debate the resolution or move the previous question, the Speaker put the question on agreeing to the resolution.(7) The regular discharge rule under Rule XXVII clause 4, requiring recognition for discharge motions to be in the order in which entered on the Journal, had no application to the 21-day rule under Rule XI clause 23.(8)

Business in order under the "21-day rule" was of the highest privilege and took precedence over District of Columbia business under Rule XXIV clause 8.(9) A motion to recommit a resolution called up under the rule was not in order, since Rule XI clause 23 prohibited any dilatory motion, except one motion to adjourn, after consideration of the resolution had begun.(10) On one occasion, the House remained in session until 12:31 a.m. and adjourned until noon on the same day following the adoption of several resolutions called up under the "21-day rule" and on which there were attempts to thwart action.(11)

Under the 21-day rule in effect in the 81st Congress, only the chairman of a committee could call up a resolution not reported by the Committee on Rules within 21 days,(12) and one motion to adjourn was in order during the consideration of a resolution under the rule.(13) And where a member of a committee (not the chairman) had been directed to call up the resolution by the committee, he advised the House of the committee's delegation of authority.(14)

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5. 111 CONG. REC. 18076, 18077, 89th Cong. 1st Sess., July 26, 1965.
6. 111 CONG. REC. 23609, 23610, 89th Cong. 1st Sess., Sept. 13, 1965; and 111 CONG. REC. 18076, 89th Cong. 1st Sess., July 26, 1965.
7. 111 CONG. REC. 23607, 89th Cong. 1st Sess., Sept. 13, 1965.
8. 111 CONG. REC. 23618, 89th Cong. 1st Sess., Sept. 13, 1965.
9. 111 CONG. REC. 23606, 89th Cong. 1st Sess., Sept. 13, 1965; and 111 CONG. REC. 18076, 89th Cong. 1st Sess., July 26, 1965.
10. 111 CONG. REC. 18087, 89th Cong. 1st Sess., July 26, 1965.
11. 111 CONG. REC. 23624, 89th Cong. 1st Sess., Sept. 13, 1965.
12. 95 CONG. REC. 13181, 81st Cong. 1st Sess., Sept. 22, 1949.
13. 96 CONG. REC. 772, 781, 81st Cong. 2d Sess., Jan. 23, 1950; and 95 CONG. REC. 10094, 81st Cong. 1st Sess., July 25, 1949.
14. 111 CONG. REC. 23621, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 18.53 Forms of special orders introduced under the discharge rule, providing for creation of special orders upon adoption, providing that a designated Member be recognized to call up the resolution, and providing that the special order be the continuing order of business until disposed of.

The following are examples of special orders containing the above provisions:

HOUSE RESOLUTION 123

Resolved, That upon the day succeeding the adoption of this resolution a special order be, and is hereby, created by the House of Representatives for the consideration of H.R. 2066, a public bill which has remained in the Committee on Agriculture for 30 or more days without action. That such special order be, and is hereby created, notwithstanding any further action on said bill by the Committee on Agriculture or any rule of the House. That on said day the Speaker shall recognize the Representative at Large from North Dakota, William Lemke, to call up H.R. 2066, a bill to liquidate and refinance existing agricutural indebtedness at a reduced rate of interest by establishing an efficient credit system, through the use of the Farm Credit Administration, the Federal Reserve Banking System, and creating a board of agriculture to supervise the same, as a special order of business, and to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of said H.R. 2066. After general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the Member of the House requesting the rule for the consideration of said H.R. 2066 and the Member of the House who is opposed to the said H.R. 2066, to be designated by the Speaker, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage, without intervening motion, except one motion to recommit. The special order shall be a continuing order until the bill is finally disposed of.(15)

HOUSE RESOLUTION 125

Resolved, That upon the day succeeding the adoption of this resolution, a special order be, and is hereby, created by the House of Representatives, for the consideration of H.R. 1507, a public bill which has remained in the Committee on the Judiciary for 30 or more days, without action. That such special order be, and is hereby, created, notwithstanding any further action on said bill by the Committee on the Judiciary, or any rule of the House. That on said day the Speaker shall recognize the Representative

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15. 80 CONG. REC. 7025–27, 74th Cong. 2d Sess., May 11, 1936.

from New York, Joseph A. Gavagan, to call up H.R. 1507, a bill to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching, as a special order of business, and to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of said H.R. 1507. After general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the Member of the House requesting the rule for the consideration of said H.R. 1507 and the Member of the House who is opposed to the said H.R. 1507, to be designated by the Speaker, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill, and the amendments thereto, to final passage, without intervening motion, except one motion to recommit. The special order shall be a continuing order until the bill is finally disposed of.(16)

HOUSE RESOLUTION 139

Resolved, That upon the day succeeding the adoption of this resolution, a special order be, and is hereby, created by the House of Representatives, for the consideration of H.R. 7, a public bill which has remained in the Committee on the Judiciary for 30 or more days without action. That such special order be, and is hereby, created, notwithstanding any further action on said bill by the Committee on the Judiciary, or any rule of the House. That on said day the Speaker shall recognize the Representative from New York, Vito Marcantonio, to call up H.R. 7, a bill making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers, as a special order of business, and to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of said H.R. 7. After general debate, which shall be confined to the bill and shall continue not to exceed 2 hours, to be equally divided and controlled by the Member of the House requesting the rule for the consideration of said H.R. 7 and the Member of the House who is opposed to the said H.R. 7, to be designated by the Speaker, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill, and the amendments thereto, to final passage, without intervening motion, except one motion to recommit. The special order shall be a continuing order until the bill is finally disposed of.(17)

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16. 81 CONG. REC. 3386, 3387, 75th Cong. 1st Sess., Apr. 12, 1937.

17. 91 CONG. REC. 5892, 79th Cong. 1st Sess., June 11, 1945.

House Resolution 515

Resolved, That upon the adoption of this resolution the Speaker shall recognize Representative Abraham J. Multer, or Representative Carlton R. Sickles, or Representative Charles McC. Mathias, Junior, or Representative Frank J. Horton to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4644) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed five hours, to be equally divided and controlled by one of the aforementioned Members and a Member who is opposed to said bill to be designated by the Speaker, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions. After the passage of H.R. 4644, the Committee on the District of Columbia shall be discharged from the further consideration of the bill S. 1118, and it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 4644 as passed. This special order shall be a continuing order until the bill is finally disposed of.[18]

§ 19. Interpretation and Effect

Since the interpretation and effect of special orders depends on their exact language and purpose, few general principles can be laid down in that regard.

While the general effect of the adoption of a resolution making in order the consideration of a bill is to give to the bill a privileged status, the adoption of the resolution making in order the consideration of a bill does not make the consideration of the bill mandatory unless so stated therein, and the bill must still be called up by a Member designated in the resolution or authorized by the committee to do so.[19]

The Speaker in the House and the Chairman in the Committee of the Whole are often requested to interpret the effect of a pending or adopted order of business resolution. In responding to such inquiries, the Chair may rely upon the legislative history of the resolution, including hearings on the resolution, statements as to purpose and intent made by members of the Committee on Rules, and debate on the resolution in the House.(1) But the actions of the Committee on Rules in construing the rules of the House and their application to factual situations are not binding on the Chair, who has the responsibility to interpret the rules when the question is properly presented.(2)

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[18] H. Res. 515, 111 Cong. Rec. 25185, 89th Cong. 1st Sess., Sept. 27, 1965.

[19] See § 19.9, infra.

The Speaker may decline to answer parliamentary inquiries, stated in the House, as to parliamentary situations which may arise in the Committee of the Whole when operating under a resolution affecting the order of business; such questions are properly presented, when they arise, to the Chairman of the Committee of the Whole.(3) The Speaker, moreover, will not entertain points of order against such resolutions on the ground that they are inconsistent or that they abrogate the rules of the House, as it is for the House to pass on the efficacy of such resolutions by voting thereon.(4)

Similarly, the Chairman of the Committee of the Whole will not question the validity of the provisions of such a resolution which has been adopted by the House.(5)

Chair's Interpretation of Special Orders

§ 19.1 Notwithstanding the adoption by the House of a resolution making in order the consideration of conference reports on the day reported (on that day), the Speaker indicated, in response to a parliamentary inquiry, that the legislative history which prompted the Committee on Rules to meet and report that resolution restricted his authority to recognize Members to call up three designated reports.

On Oct. 18, 1972,(6) Mr. William M. Colmer, of Mississippi, called up, by direction of the Committee on Rules, House Resolution 1168, providing for the consideration, on a certain day, of any reports from the Committee on Rules and any conference reports reported on that day. Mr. Colmer explained that the resolution was a product of an informal leadership agreement of the preceding day.

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(1) See §§ 19.1-19.3, infra.

(2) See § 19.3, infra.

(3) See §§ 19.4, 19.5, infra.

(4) See § 19.7, infra.

(5) See § 19.6, infra.

(6) 118 Cong. Rec. 37063, 37064, 92d Cong. 2d Sess.

Speaker Carl Albert, of Oklahoma, then answered parliamentary inquiries on his exercise of the power of recognition under the resolution:

Mr. [Peter W.] Rodino [Jr., of New Jersey]: Mr. Speaker, under the resolution just agreed to, would it be in order for the House to consider the conference report when it is ready on S. 2087, Omnibus Crime Control and Safe Streets Act of 1968, benefits to survivors of police officers killed in line of duty, which was agreed upon and which was filed yesterday?

The Speaker: The Chair must answer the gentleman in accordance with the language which the Chair used when this matter was before the House on yesterday. At that time the Chair stated, and no specific reference was made to any bill because it had been informally mentioned to the Members who were seeking the rule, that this rule would not be used for any other bill except those dealing with three items. Under that interpretation it would be in order to bring those conference reports upon the day on which they were filed. As the Chair understands his own language and his own informal agreement, which was a part of the history, the Chair would very much like to recognize the gentleman, but the Chair feels constrained to hold that the legislative history restricts all action under House Resolution 1168 to three measures, the highway bill, the debt ceiling bill, and the continuing resolution.

Mr. Rodino: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rodino: Mr. Speaker, referring again to the rule adopted, was not the language strictly stated, and this is the language that I heard stated, the language referred to in the course of debate notwithstanding legislative history of yesterday, to consider conference reports the same day reported, notwithstanding the provisions of clause 2, rule XXVIII?

The Speaker: The gentleman is referring to three conference reports which precipitated the action which brought into existence this resolution.

The Chair would like to recognize the gentleman, but the Chair feels that its own promise is at stake here.

The Chair will try to find some other method of recognizing the gentleman.

The Chair does not feel that in good faith or in good conscience it can recognize the gentleman under the circumstances. . . .

The Chair feels constrained to say—and the Chair hates to make a statement from the chair on issues like this—it was suggested these three bills which the Chair has mentioned be listed in the resolution. The Chair said that was not necessary; that was the understanding, and it would simply complicate the resolution by naming the three bills. That is what happened.

The Chair recognizes that had it not been for that understanding and legislative history, which is in the Record, this would have been eligible under the clear language of the resolution.

The Chair would gladly recognize the gentleman for a unanimous-consent request to bring it up now.

Parliamentarian's Note: When called upon to interpret the provisions of a special rule adopted by the House, the Speaker may examine the legislative history of that resolution, including debate and statements of members of the Committee on Rules during its consideration in the House.

§ 19.2 In construing a resolution waiving points of order, the Chairman of the Committee of the Whole may examine debate on the resolution in the House in determining the scope of the waiver.

On June 22, 1973,(7) Mr. Edward P. Boland, of Massachusetts, made a point of order against three amendments offered en bloc by Mr. Robert O. Tiernan, of Rhode Island, to H.R. 8825 (the HUD and independent agencies appropriation bill) on the ground that they violated Rule XXI clause 2, prohibiting legislation on an appropriations bill. Before reaching the question whether the amendments did in fact violate that rule, Chairman James G. O'Hara, of Michigan, heard argument on and ruled on the scope of the resolution providing for the consideration of the bill and waiving certain points of order:

The Chairman: The Chair is prepared to rule.

The Chair feels that it will be necessary first to speak on the contention raised by the gentleman from Rhode Island (Mr. Tiernan) and amplified upon by the gentleman from Connecticut (Mr. Giaimo) with respect to the provisions of the resolution under which the bill is being considered, and whether or not the provisions of that resolution have an effect on the point of order made by the gentleman from Massachusetts (Mr. Boland).

The gentleman from Connecticut (Mr. Giaimo) is correct in asserting that if the amendment offered by the gentleman from Rhode Island (Mr. Tiernan) is out of order at all it is out of order because of the second sentence of clause 2 of rule XXI, which contains the provisions that "nor shall any provision in any such bill or amendment thereto changing existing law be in order," and so forth, setting forth exceptions. But the gentleman from Connecticut (Mr. Giaimo) contends, and the gentleman from Rhode Island (Mr. Tiernan) concurs, that the resolution providing for the consideration of the bill waives the provisions of that rule. The Chair has again read the rule. It says:

> *Resolved,* That during the consideration of the bill (H.R. 8825) making appropriations for the Department of Housing and Urban

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7. 119 Cong. Rec. 20981-83, 93d Cong. 1st Sess.

Development . . . the provisions of clause 2, rule XXI are hereby waived.

It does not say that points of order are waived only with respect to matters contained in the bill. It says "During the consideration of the bill" the provisions of clause 2 of rule XXI are waived.

The Chair was troubled by that language and has examined the statements made by the members of the Committee on Rules who presented the rule to see if their statements in any way amplified or explained or limited that language. The Chair has found that both the gentleman from Louisiana (Mr. Long) and the gentleman from Ohio (Mr. Latta) in their explanations of the resolution did, indeed, indicate that it was their intention, and the intention of the committee, that the waiver should apply only to matters contained in the bill and that it was not a blanket waiver.

Therefore whatever ambiguity there may have been in the rule as reported, the Chair is going to hold, was cured by the remarks and legislative history made during the presentation of the rule, which were not disputed in any way by the gentleman from Connecticut or anyone else. However, the Chair, recognizes that it is a rather imprecise way of achieving that result and would hope that in the future such resolutions would be more precise in their application.

§ 19.3 In ruling on the germaneness of an amendment, the Chair considers the purpose of the amendment with relation to the bill under consideration, and is not bound by the fact that the Committee on Rules, in reporting the resolution providing for the consideration of the bill, specifically waived points of order against the consideration of a similar amendment.

On Mar. 15, 1960,(8) Mr. Howard W. Smith, of Virginia, made a point of order, on the grounds of germaneness, against an amendment offered by Mr. William M. McCulloch, of Ohio, to H.R. 8601, to enforce constitutional rights and for other purposes. In argument on the point of order, Mr. Smith stated in support of his contention that the amendment was not germane, that the Committee on Rules had reported a resolution for the consideration of the bill, which resolution waived points of order against a specified amendment containing similar language. Mr. Emanuel Celler, of New York, and Mr. Charles A. Halleck, of Indiana, argued that the action of the Committee on Rules in resolving any doubts about the nongermaneness of an amendment by waiving points of order should not indicate whether the amendment was in fact germane. Chair-

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8. 106 Cong. Rec. 5655–57, 86th Cong. 2d Sess.

man Francis E. Walter, of Pennsylvania, ruled as follows:

> The Chairman: The Chair is ready to rule.
>
> It is quite true that the rule House Resolution 359, under which H.R. 8601 is being considered, contains the language that the gentleman from Virginia mentioned a moment ago, concerning putting in order H.R. 10035 in order to eliminate any question of germaneness of that particular proposal.
>
> The Chair dislikes to substitute the judgment of the Chair for that of the distinguished Committee on Rules, but, frankly, the Chair does not believe that including this language necessarily binds the present occupant of the Chair.
>
> It is quite true that the measure, H.R. 8601, deals with Federal election records, and the Chair is quite certain that the membership agrees with the Chair that the scope is rather narrow. However, the Chair feels that the amendment offered by the gentleman from Ohio has to do with the basic purpose of title 3 of the bill H.R. 8601.
>
> The Chair overrules the point of order.

Interpretations Not Within the Chair's Province

§ 19.4 During consideration in the House of a resolution waiving points of order against a designated amendment, the Speaker declined to respond to a parliamentary inquiry concerning amendments which might be offered to that amendment in Committee of the Whole, since the Speaker does not construe parliamentary situations which might arise in the Committee of the Whole.

On June 29, 1973,[9] the House was considering House Resolution 479, providing for the consideration of H.R. 9055, a supplemental appropriations bill; the resolution waived points of order against a designated amendment which contained legislation. Mr. James J. Pickle, of Texas, inquired of Speaker Carl Albert, of Oklahoma, as to the process of amending the amendment designated in the resolution. The Speaker responded as follows:

> The Chair will answer that this is a matter for the Chairman of the Committee of the Whole House on the State of the Union.
>
> The Chair is not able at this time to take over the responsibility of making parliamentary rulings from the Chairman of the Committee of the Whole House.
>
> Mr. [Delbert L.] Latta [of Ohio]: Mr. Speaker, the Speaker is absolutely correct. This is something that can be taken up in the Committee of the Whole House on the State of the Union.

§ 19.5 The Speaker declined, in response to a parliamentary inquiry, to interpret the provisions of a resolution which would con-

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[9] 119 Cong. Rec. 22336, 22337, 93d Cong. 1st Sess.

trol the consideration of amendments in the Committee of the Whole.

On Apr. 16, 1973,(10) the House was considering a resolution making in order the consideration of a bill in the Committee of the Whole, where the resolution made in order a designated amendment as an amendment in the nature of a substitute, and if that amendment was rejected made in order the committee amendments printed in the bill. In response to a parliamentary inquiry as to the procedure in the consideration of such amendments in the Committee of the Whole, Speaker Carl Albert, of Oklahoma, stated that the question was properly for the Chairman of the Committee of the Whole and that the Speaker did not desire to "get into the parliamentary situation which would properly be considered in the Committee of the Whole."

§ 19.6 It is the duty of the Chair to determine whether language in a pending bill conforms with the rules of the House, but where the House has adopted a resolution waiving points of order against provisions in violation of the standing rules, the Chair will not construe the constitutional validity of those provisions.

On May 10, 1973,(11) the Committee of the Whole was considering for amendment under the five-minute rule the bill H.R. 7447, making supplemental appropriations, where the House had previously adopted House Resolution 389 waiving points of order against unauthorized appropriations, legislation, and reappropriations of unexpended balances in the bill. Mr. Sidney R. Yates, of Illinois, made a point of order against language contained in the bill, appropriating moneys for the Department of Defense, on the grounds that such appropriation violated constitutional principles:

> Mr. Chairman. I make a point of order against the language set forth in lines 10, 11, and 12, on page 6.
>
> Article I, section 8, of the Constitution of the United States says:
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> "The Congress shall have the power to declare war."
>
> Congress has not declared war against Cambodia or Laos or against any other country in Southeast Asia for that matter. Congress has not given the President any authority to use the American Armed Forces in Cambodia

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(10) 119 Cong. Rec. 12501, 12503, 93d Cong. 1st Sess.

(11) 119 Cong. Rec. 15290, 15291, 93d Cong. 1st Sess.

and Laos. Nevertheless, on order of President Nixon, American military planes are bombing in both those countries. The appropriation contained in the transfer authority includes funds to continue the bombing of Cambodia and Laos. . . .

Now, my argument, Mr. Chairman, will not relate to an interpretation by the Chair of the Constitution. I want to make that clear at this point.

Rule XXI, paragraph 2, of the Rules of the House says:

> No appropriation shall be reported in any general appropriation bill for any expenditure not previously authorized by law.

Mr. Chairman, under that rule it is not enough that there be ordinary legislative authority which is required for other appropriations. It is not enough that there be ordinary legislative authority upon which to base an appropriation for American Armed Forces to engage in war.

There must be constitutional authority for that appropriation as well, namely, there must be congressional approval for American forces to engage in a war. Both authorizations are essential for that kind of appropriation.

Mr. Chairman, I am contending that there are two forms of legislative authorization that are essential for military appropriations which are to be used to carry on a war, as the bombing is in Cambodia and Laos. One is the ordinary legislative authorization, and the other, which is necessary, also, is a following of the constitutional mandate as well.

It will be argued, Mr. Chairman, what difference does that make? Points of order have been waived by rule approved by the House and granted by the Committee on Rules. That argument might be appropriate with respect the need for ordinary legislation which would authorize the use of that transfer of authority, but, as I pointed out, we have two forms of legislation. While that waiver of points of order might apply to ordinary legislation, it cannot apply to a waiver of the constitutional provisions, because the Committee on Rules cannot waive any constitutional provisions. The provisions of the Constitution cannot be waived by the Committee on Rules, because to hold otherwise would be to authorize any unconstitutional action by the House. This House cannot pass any rule of procedure that would vitiate or violate any provision of the Constitution. . . .

I am asking the Chair for its ruling on two points. One, I ask the Chair to rule with respect to military appropriations which provide funds for American Armed Forces to engage in war under rule XXI, section 2, of the Rules of Procedure of the House of Representatives, which states there must be, as well as any other legislation authorizing such action, compliance with article I, section 8, of the U.S. Constitution, which requires the approval of the Congress for American Armed Forces to engage in that war; and, secondly, I am asking the Chair to rule that the requirements in article I, section 8, cannot be waived by any rule of the Committee on Rules.

Mr. Chairman, with your ruling, if favorable, the language authorizing the transfer authority should be stricken.

After further argument, Chairman Jack B. Brooks, of Texas, ruled as follows:

> The Chair is ready to rule.
>
> The Chair has read the resolution, and the resolution adopted by the House under which this legislation is being considered says that—
>
> > All points of order against said bill for failure to comply with the provisions of clause 2 and clause 5 of rule XXI are hereby waived.
>
> Under clause 2, which the Chair has read, the pending paragraph would be subject to a point of order, as legislation, were it not for this rule.
>
> The Chair is not in a position, nor is it proper for the Chair to rule on the constitutionality of the language, or on the constitutionality or other effect of the action of the House in adopting the resolution of the Committee on Rules. In the head notes in the precedents of the House it very clearly states that it is not the duty of a chairman to construe the Constitution as it may affect proposed legislation, or to interpret the legality or effect of language; and the Chair therefore overrules the point of order raised by the gentleman from Illinois (Mr. Yates).

§ 19.7 A point of order does not lie against the consideration of a resolution, reported by the Committee on Rules and properly before the House as a privileged matter, on the ground that its adoption will abrogate the provisions of a House rule, as it is for the House and not the Chair to determine the order of its proceedings.

On Nov. 28, 1967,(12) the previous question had been moved on House Resolution 985, called up by direction of the Committee on Rules, providing for concurring in a Senate amendment to a House bill; the resolution was necessary in order to waive the requirement of Rule XX clause 1, that Senate amendments be considered in Committee of the Whole if originating in the House they would be subject to that procedure. Speaker John W. McCormack, of Massachusetts, overruled a point of order against the resolution:

> MR. [PAUL C.] JONES of Missouri: Mr. Speaker, I make a point of order against a vote on this resolution, and I make the point of order based entirely on rule XX, which says that any amendment of the Senate to any House bill shall be subject to a point of order that it shall first be considered in the Committee of the Whole House on the State of the Union. If it originated in the House it would be subject to that point of order. I believe there is no question about it being subject to a point of order should it originate here in this House. Until that issue is debated in the Committee of the Whole House on the State of the Union I

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12. 113 CONG. REC. 34038, 34039, 90th Cong. 1st Sess.

believe that we are violating rule XX of the House rules.

THE SPEAKER: The Chair will state that the Chair has previously ruled on the point of order raised by the gentleman, and the matter is one that is now before the House for the consideration of the House, and the will of the House.

For the reasons heretofore stated and now stated, the Chair overrules the point of order.

MR. JONES of Missouri: Respectfully, Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. JONES of Missouri: Mr. Speaker, can the Chair tell me under what authority the House can consider this in the House rather than in the Committee of the Whole House on the State of the Union, in view of rule XX which says it shall first be considered in the Committee of the Whole House on the State of the Union?

THE SPEAKER: The Chair will state that the House can change its rules at any time upon a resolution that is properly before the House reported by the Committee on Rules. The present resolution has been put before the House by the Committee on Rules within the authority of the Committee on Rules, therefore the matter presents itself for the will of the House.

MR. JONES of Missouri: Mr. Speaker, a further parliamentary inquiry.

The reason I am making this is that I want to get some record on this for this reason: The Chair has said that the Committee on Rules may make a resolution which has not been adopted by the House which summarily amends the Rules of the House which the Members of the House are supposed to rely upon. This rule has not been adopted as yet.

THE SPEAKER: The Chair will state that the Committee on Rules has reported the rule under consideration——

MR. JONES of Missouri: But it has never been voted upon.

THE SPEAKER: The Chair will state that we are about to approach that matter now.

MR. JONES of Missouri: And I am challenging that, and the point of order is made that we cannot vote on that because it says in rule XX that this first shall be considered in the Committee of the Whole House on the State of the Union.

THE SPEAKER: The Chair cannot be any more specific or clear in responding to the point of order or in answering the gentleman's parliamentary inquiry.

The matter is properly before the House and it is a matter on which the House may express its will.

§ 19.8 The question whether the House will consider a resolution making in order the consideration of a bill which allegedly seeks to amend a nonexisting law is a matter for the House and not the Chair to decide.

On May 13, 1953,(13) Mr. Leo E. Allen, of Illinois, called up, by direction of the Committee on Rules, a resolution providing for the consideration of a bill to amend

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13. 99 CONG. REC. 4877, 83d Cong. 1st Sess.

the "Submerged Lands Act," reported from the Committee on the Judiciary Speaker Joseph W. Martin, Jr., of Massachusetts, overruled a point of order against the consideration of the resolution:

> MR. [MICHAEL A.] FEIGHAN [of Ohio]: Mr. Speaker, a point of order.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. FEIGHAN: Mr. Speaker, I make a point of order against the consideration of this rule because it attempts to make in order the consideration of the bill H.R. 5134, which is a bill to amend a nonexisting act.
>
> THE SPEAKER: The Chair will state that the point of order that has been raised by the gentleman from Ohio is not one within the jurisdiction of the Chair, but is a question for the House to decide, whether it wants to consider such legislation.
>
> The Chair overrules the point of order.

Effect of Adoption of Special Order

§ 19.9 The adoption of a resolution making in order the consideration of a bill does not necessarily make the bill the unfinished business the next day, and the bill can only be called up by a Member designated by the committee to do so.

On July 19, 1939,[14] the House adopted a resolution from the Committee on Rules making in order the consideration of a bill. Speaker William B. Bankhead, of Alabama, answered a parliamentary inquiry on the status of the bill thereby made in order as unfinished business:

> MR. [CLAUDE V.] PARSONS [of Illinois]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. PARSONS: Mr. Speaker, the House having adopted the rule, is not this bill the unfinished business of the House on tomorrow?
>
> THE SPEAKER: Not necessarily. The rule adopted by the House makes the bill in order for consideration, but it is not necessarily the unfinished business. It can only come up, after the adoption of the rule, by being called up by the gentleman in charge of the bill.

§ 19.10 The effect of a special rule providing for the consideration of a bill is to give to the bill the privileged status for consideration that a revenue or appropriation bill has under Rule XVI clause 9.

On June 28, 1930,[15] Mr. Fred S. Purnell, of Indiana, called up by direction of the Committee on Rules, House Resolution 264, providing that upon the adoption of the resolution it be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a particular bill, and providing for that bill's consideration. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution and characterized the effect of such a resolution from the Committee on Rules:

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[14] 84 CONG. REC. 9541, 76th Cong. 1st Sess.

[15] 72 CONG. REC. 11994, 11995, 71st Cong. 2d Sess.

MR. [CARL R.] CHINDBLOM [of Illinois]: Mr. Speaker, if pressed, I will make the point of order that the resolution from the Committee on Rules is not in order because it relates to a bill which is not now upon the calendar of the House under the conditions and in the status which existed when this resolution was adopted by the Committee on Rules.

The calendar shows that H.R. 12549 was reported to the House on June 24, 1930, Report No. 2016, and was placed on the House Calendar. The resolution or rule now called up for consideration by the Committee on Rules was presented to the House June 20, 1930, and therefore before the bill on the calendar had been reported to the House.

Of course, we all know that this bill is now upon the calendar for the third time. A previous rule was adopted for its consideration on June 12, 1930, and at that time a point of order was made, when it was sought to take up the bill in Committee of the Whole House on the state of the Union, on the ground that the report did not comply with the Ramseyer rule. Subsequently, after the present rule was presented in the House on June 20, 1930, I think it is well known that another irregularity in the adoption of the report became known, so, on June 23, if my recollection is correct, the chairman of the Committee on Patents obtained unanimous consent to withdraw the bill and the report, and the bill was thereupon reported the following day and placed upon the House Calendar.

The situation is novel and arises, so far as I can learn, for the first time, and it raises the question whether the Committee on Rules has authority in advance of the report of a bill, and in advance of the placing of a bill on any calendar of the House, to bring in a rule for the consideration of the bill under the general rules of the House, as this resolution does, because the rule merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill. As I construe the rule, it does not suspend any of the rules of the House in reference to the consideration of legislation. It does not suspend the rule which requires bills to be upon the calendar of the House before they can have consideration. . . .

MR. [JOHN Q.] TILSON [of Connecticut]: Mr. Speaker, will the gentleman yield?

MR. CHINDBLOM: Yes.

MR. TILSON: Does not the effect of this resolution date from the time it is adopted by the House, and not from the time it was reported by the Committee on Rules? And if we today in the House adopt the rule, is not the effect of the rule to be applied as of today, and not three or four days ago, when the rule was reported?

THE SPEAKER: The Chair is prepared to rule. It is not necessary to pass upon the question of whether the original rule for the consideration of this bill is still alive or not. The Chair, when the matter was originally submitted to him, informally expressed a grave doubt as to whether it would be considered alive. But this rule is an entirely different rule. It appears now for the first time for consideration. The Chair is aware that this bill has had a rather stormy passage. It has been twice rereferred to the committee, but as the bill now appears, so far as the Chair is advised, it is properly on the calendar as of June 24, 1930, and this special rule is properly reported to consider that bill. The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:

> At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.

Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

§ 19.11 Where a special rule gives a highly privileged status to a motion for a recess, such motion takes precedence over a motion to adjourn.

On June 4, 1934,[16] Speaker Henry T. Rainey, of Illinois, ruled that a motion to recess, given privilege by a special rule, took precedence over a motion to adjourn:

MR. [JOSEPH W.] BYRNS [of Tennessee]: Mr. Speaker, under the rules it is in order today to call up bills under suspension of the rules and to call the Consent Calendar. We have been here since 11 o'clock. The entire day has been taken up in suspensions. There are quite a number of bills on the Unanimous Consent Calendar. A number of Members have come to me and said they were very anxious to have those bills called. Perhaps this will be the last time the Consent Calendar can be called during this session. I think it is only fair that this legislative day shall go over until tomorrow.

Mr. Speaker, I move that the House stand in recess until 11 o'clock tomorrow.

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[16] 78 CONG. REC. 10470, 10471, 73d Cong. 2d Sess.

Mr. [Gerald J.] Boileau [of Wisconsin]: Mr. Speaker, I offer a preferential motion.

Mr. Speaker, I move that the House do now adjourn.

Mr. Byrns: Mr. Speaker, under the rule adopted last week my motion is highly privileged.

The Speaker: The gentleman from Wisconsin cannot be recognized.

The special rule referred to was reported from the Committee on Rules and adopted on June 1, 1934:

Mr. [William B.] Bankhead [of Alabama]: Mr. Speaker, I call up a privileged report (Rept. No. 1856) from the Committee on Rules (H. Res. 410) and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 410

Resolved, That during the remainder of the second session of the Seventy-third Congress it shall be in order for the Speaker at any time to entertain motions, to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII; it shall also be in order at any time during the second session of the Seventy-third Congress for the majority leader to move that the House take a recess, and said motion is hereby made of the highest privilege; and it shall also be in order at any time during the second session of the Seventy-third Congress to consider reports from the Committee on Rules, as provided in clause 45, rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during the remainder of this session of Congress.(17)

D. TYPES OF SPECIAL ORDERS

§ 20. Varying Order of Business; Providing for Consideration

Pursuant to the jurisdiction of the Committee on Rules over the rules and order of business,(18) the committee has broad power to report and the House to adopt resolutions changing the regular order of business for the consideration of a proposition, and directing how the proposition will be considered.

The measure whose consideration is made in order by a special rule may include, but is not limited to, a House or Senate bill or resolution, a House bill or resolution not reported from committee, or a measure which has not yet even been introduced.(19) The authority

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17. *Id.* at p. 10239.

18. Rule XI clause 17(a), *House Rules and Manual* § 715 (1973) [now Rule X clause 1(q)(1), *House Rules and Manual* § 786(a) (1979)].

19. See §§ 20.5–20.15, infra. A special order may similarly make in order the consideration of a conference

of the Committee on Rules to recommend to the House the specific procedures whereby a measure may be considered on the floor of the House is also broad. The only restrictions on that power are those provisions relating to the motions to recommit and to dispense with Calendar Wednesday, contained in Rule XI clause 23.(20)

Even while a bill is pending before and open to amendment in Committee of the Whole, the Committee on Rules may report and the House may adopt a resolution changing the method of consideration, such as making in order an amendment not otherwise in order under the rules of the House.(1)

Furthermore, a special order may waive any rule or point of order insofar as it relates to a proposition to be considered.

In providing a method of consideration, the Committee on Rules may recommend that a Union Calendar bill be considered in the House, that a simple resolution on the House Calendar be considered in Committee of the Whole and read for amendment, or that a Senate bill or amendment normally subject to consideration in Committee of the Whole be considered and amended in the House.(2)

In the following sections, some attempt is made to distinguish

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report not yet reported (see § 27, infra). For the principle that the power extends to providing for the consideration of a bill not yet introduced, see 8 Cannon's Precedents § 3388.

Where the purpose of a special order is to bring before the Committee of the Whole a bill not yet reported from a standing committee, the usual form of the resolution is to provide that upon the adoption of the resolution the House shall immediately resolve itself into the Committee of the Whole for consideration of the bill, rather than to provide that it shall be in order to so move. See, for example, § 20.13, infra.

20. *House Rules and Manual* § 729 (1973) [now Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].

For further discussion of the authority of the Committee on Rules and the applicable restrictions, including the extent to which its reports are privileged, see §§ 16, 17, supra. For specific precedents on the motion to recommit as it relates to special orders, see § 26, infra.

1. See §§ 20.32, 20.33, infra. For an earlier precedent, wherein it was held that a resolution, authorizing the offering of an amendment otherwise not in order during the further consideration of a bill pending in Committee of the Whole, was privileged when reported from the Committee on Rules, see 8 Cannon's Precedents § 2258.

2. See, for example, §§ 20.16–20.23, 27.3, 27.6, infra.

between "open" and "closed" rules, which dictate the degree to which amendments may be offered to a measure under consideration. But, for the most part, the possible forms and variations of resolutions on the order of business are so numerous, and depend so much on the evolution of the rules and practices of the House of Representatives, that a complete catalogue would be of doubtful utility. Thus, whenever possible in ensuing sections, general principles are stressed over specific. It is also emphasized that it is the function of the Committee on Rules, and not of the individual Member, to conceptualize and draft resolutions affecting the order of business, since the committee initiates special rules and reports them to the House as original propositions. Such resolutions are not generally introduced by Members, except when brought to the House floor by a motion to discharge.

The reader may expect to find in this and the following sections brief discussions of procedural matters which are extensively discussed in other chapters of this work, since order of business resolutions reported from the Committee on Rules may cover every aspect of parliamentary procedure in the House of Representatives. An understanding of the precedents and practices governing any given area of procedure may aid in appreciating the form and purpose of such resolutions.

Cross References

As to the order of business generally, see § 1, supra.

As to suspension of the rules to vary the order of business, see § 9, supra.

As to the regular order of business and consideration in Committee of the Whole, see Ch. 19, supra.

As to bills, resolutions, and procedures for their consideration and passage, see Ch. 24, infra.

As to consideration in the House and in the Committee of the Whole generally, see Ch. 29, infra.

Making in Order Motion That House Resolve Into Committee of Whole for Consideration of Bill

§ 20.1 Form of resolution providing that the Speaker shall recognize a designated Member to move that the House resolve itself into Committee of the Whole for consideration of a bill.

The following resolution was under consideration on Mar. 10, 1960:(3)

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3. H. Res. 359, 106 Cong. Rec. 5192, 5193, 86th Cong. 2d Sess.

Resolved, That upon the adoption of this resolution, the Speaker shall recognize the chairman of the Committee on the Judiciary, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8601) to enforce constitutional rights, and for other purposes. All points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed two days to be equally divided and controlled by the chairman of the Committee on the Judiciary and the ranking minority member thereof, the bill shall be considered as having been read and open at any point for amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as shall have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

As a further example, the following resolution was considered on Sept. 27, 1965:

Resolved, That upon the adoption of this resolution the Speaker shall recognize Representative Abraham J. Multer, or Representative Carlton R. Sickles, or Representative Charles McC. Mathias, Junior, or Representative Frank J. Horton to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4644) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed five hours, to be equally divided and controlled by one of the aforementioned Members and a Member who is opposed to said bill to be designated by the Speaker, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions. After the passage of H.R. 4644, the Committee on the District of Columbia shall be discharged from the further consideration of the bill S. 1118, and it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 4644 as passed. This special order shall be a continuing order until the bill is finally disposed of.(4)

Parliamentarian's Note: Section 23, infra, discusses raising points of

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4. Brought up by motion to discharge, H. Res. 515, 111 CONG. REC. 25185, 89th Cong. 1st Sess.

order against bills when the special order makes in order a motion to resolve into the Committee of the Whole for consideration thereof.

§ 20.2 The Speaker held that the effect of a special rule providing for the consideration of a bill was to give to the bill the privileged status for consideration that a revenue or appropriation bill has under Rule XVI clause 9, and that such privilege could be granted notwithstanding the fact that the bill was not on a calendar of the House.

On June 28, 1930,(5) Mr. Fred S. Purnell, of Indiana, called up by direction of the Committee on Rules, House Resolution 264, providing that upon the adoption of the resolution it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a particular bill, and providing for that bill's consideration. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution and characterized the effect of such a resolution from the Committee on Rules:

MR. [CARL R.] CHINDBLOM [of Illinois]: Mr. Speaker, if pressed, I will make the point of order that the resolution from the Committee on Rules is not in order because it relates to a bill which is not now upon the calendar of the House under the conditions and in the status which existed when this resolution was adopted by the Committee on Rules.

The calendar shows that H.R. 12549 was reported to the House on June 24, 1930, Report No. 2016, and was placed on the House Calendar. The resolution or rule now called up for consideration by the Committee on Rules was presented to the House June 20, 1930, and therefore before the bill on the calendar had been reported to the House.

Of course, we all know that this bill is now upon the calendar for the third time. A previous rule was adopted for its consideration on June 12, 1930, and at that time a point of order was made, when it was sought to take up the bill in Committee of the Whole House on the state of the Union, on the ground that the report did not comply with the Ramseyer rule. Subsequently, after the present rule was presented in the House on June 20, 1930, I think it is well known that another irregularity in the adoption of the report became known, so, on June 23, if my recollection is correct, the chairman of the Committee on Patents obtained unanimous consent to withdraw the bill and the report, and the bill was thereupon again reported the following day and placed upon the House Calendar.

The situation is novel and arises, so far as I can learn, for the first time, and it raises the question whether the Committee on Rules has authority in advance of the report of a bill, and

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[5] 72 CONG. REC. 11994, 11995, 71st Cong. 2d Sess.

in advance of the placing of a bill on any calendar of the House, to bring in a rule for the consideration of the bill under the general rules of the House, as this resolution does, because the rule merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill. As I construe the rule, it does not suspend any of the rules of the House in reference to the consideration of legislation. It does not suspend the rule which requires bills to be upon the calendar of the House before they can have consideration. It merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

MR. [JOHN Q.] TILSON [of Connecticut]: Mr. Speaker, will the gentleman yield?

MR. CHINDBLOM: Yes.

MR. TILSON: Does not the effect of this resolution date from the time it is adopted by the House, and not from the time it was reported by the Committee on Rules? And if we to-day in the House adopt the rule, is not the effect of the rule to be applied as of to-day, and not three or four days ago, when the rule was reported?

THE SPEAKER: The Chair is prepared to rule. It is not necessary to pass upon the question of whether the original rule for the consideration of this bill is still alive or not. The Chair, when the matter was originally submitted to him, informally expressed a grave doubt as to whether it would be considered alive. But this rule is an entirely different rule. It appears now for the first time for consideration. The Chair is aware that this bill has had a rather stormy passage. It has been twice rereferred to the committee, but as the bill now appears, so far as the Chair is advised, it is properly on the calendar as of June 24, 1930, and this special rule is properly reported to consider that bill. The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:

> At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.

Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

§ 20.3 The adoption of a resolution making in order the consideration of a bill does not necessarily make such bill the unfinished business the next day, and such bill can only be called up by a Member designated by the committee to do so.

On July 19, 1939,(6) the House had adopted a special order providing that upon the adoption thereof "it shall be in order to move that the House resolve itself into the Committee of the Whole" for the consideration of a bill. Speaker William B. Bankhead, of Alabama, answered an inquiry on the effect of the resolution:

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I may state to the House that it has been decided we will not proceed further with the bill under consideration than the adoption of the rule this afternoon.

MR. [KENT E.] KELLER [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. KELLER: Mr. Speaker, what will be the parliamentary situation tomorrow?

THE SPEAKER: The Chair is not in position to answer the parliamentary inquiry of the gentleman from Illinois. The Chair cannot anticipate what measure may be called up tomorrow.

MR. [CLAUDE V.] PARSONS [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. PARSONS: Mr. Speaker, the House having adopted the rule, is not this bill the unfinished business of the House on tomorrow?

THE SPEAKER: Not necessarily. The rule adopted by the House makes the bill in order for consideration, but it is not necessarily the unfinished business. It can only come up, after the adoption of the rule, by being called up by the gentleman in charge of the bill.

Filing Supplemental Report on Measure on Which Special Order Has Been Reported

§ 20.4 The reporting of a special rule for the consideration of a bill does not preclude the committee from which the bill is reported from obtaining unanimous consent to file a supplemental report advocating an amendment to the bill.

On Feb. 29, 1940,(7) there was pending before the House a special order from the Committee on Rules providing for the consideration of a bill. A parliamentary inquiry was propounded relative to the fact that following the report from the Committee on Rules, the legislative committee reporting the bill reported a supplemental report recommending an amendment to the bill on the House floor:

MR. [EARL C.] MICHENER [of Michigan]: The Speaker was not in the Chair when I raised my original point. The point was this, that a legislative committee asked for a rule to consider a specific piece of legislation

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6. 84 CONG. REC. 9541, 76th Cong. 1st Sess.

7. 86 CONG. REC. 2184, 2185, 76th Cong. 3d Sess.

dealing with a specific matter in a particular way. I was not then a member of the committee. After consideration the Rules Committee felt it wise to recommend a rule providing for the consideration of this particular thing in this particular way. Shortly after that the legislative committee secured unanimous consent to file a supplemental report on this original bill, and in their report the legislative committee adopted another bill dealing with the same matter but in an entirely different way and in a way that possibly—and probably—would not have been authorized when the rule was asked for.

A confidential copy is floating around here of the bill which the committee intends to bring up. My inquiry is whether that can be done under the rules of the House. If that can be done, it is a simple matter for any committee to ask for a rule on a perfectly harmless bill which every one might be for, and then, after they get the rule, bring in another bill in fact, under the same number. This rule was granted on July 10 last year. Then in January, 7 months later, they introduce a new bill in a supplemental report and are attempting to bring this new bill dealing with the same subject matter in an entirely different manner before the House under the old rule. Can that be done?

Speaker William B. Bankhead, of Alabama, answered the inquiry as follows:

The gentleman from Michigan [Mr. Michener], who raises this question by parliamentary inquiry, of course, is familiar with the general principle that all proposed action touching the rules, joint rules, and orders of business shall be referred to the Committee on Rules. Under a broad, uniform construction of that jurisdiction, the Rules Committee, as the Chair understands it, has practically plenary power, unreserved and unrestricted power, to submit for the consideration of the House any order of business it sees fit to submit, subject, of course, to the approval of the House.

The Chair, of course, knows nothing about what was in the minds of the committee in reference to this legislation. The Chair can only look at the face of the record as it is presented from a parliamentary standpoint. As the Chair construes the resolution now pending, it is very broad in its terms. It provides for the consideration of a Senate bill pending on the Union Calendar and the Chair assumes that the Committee on Rules was requested to give a rule for the consideration of that bill, which was the original basis for any legislation that may be passed touching this subject of stream pollution.

In conformance with the general power and jurisdiction of the Rules Committee, it did report a resolution providing that in the consideration of the Senate bill any germane amendments may be offered; and, of course, it is not the province of the Chair, presiding over the House, to determine the relevancy or germaneness of any amendment that may be submitted in the Committee of the Whole, whether by way of a substitute or by way of amendment.

The Chair is clearly of the opinion that the Rules Committee had a perfect right under the general authority conferred upon it to report this resolution providing for this method of consideration of the bill.

Immediate Consideration of Bills Not Reported From Committee

§ 20.5 Form of resolution making in order the immediate consideration of a joint resolution not yet reported by the committee to which referred.

The following resolution was under consideration on June 24, 1965:(8)

Resolved, That, upon the adoption of this resolution, the House shall immediately resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the House joint resolution (H.J. Res. 541) to extend the Area Redevelopment Act for a period of two months. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 20.6 Where the House adopts a resolution providing for the "immediate consideration" in Committee of the Whole of a bill not reported from committee, the Speaker directs that the House resolve itself into Committee of the Whole without recognizing for a motion to that effect.

On June 24, 1965, the House adopted House Resolution 433, providing that upon the adoption of the resolution the House "shall immediately resolve itself into the Committee of the Whole House on the state of the Union for the consideration" of a bill not yet reported from committee. The House proceeded as follows upon the adoption of the resolution (Speaker John W. McCormack, of Massachusetts, presiding):

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, I move the previous question on the resolution.

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8. H. Res. 433, 111 CONG. REC. 14705, 89th Cong. 1st Sess.

The previous question was ordered.

The Speaker: The question is on the resolution.

The resolution was agreed to.

The Speaker: Pursuant to House Resolution 433, the House resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 541).

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 541), to extend the Area Redevelopment Act for a period of 2 months, with Mr. Boland in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

Mr. [Wright] Patman [of Texas]: Mr. Chairman, I yield myself 5 minutes.(9)

Similarly on Mar. 17, 1970, the House proceeded as follows (Speaker McCormack presiding):

Mr. [B. F.] Sisk [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 874 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 874

> *Resolved*, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. . . .

Mr. Sisk: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The Speaker: Pursuant to House Resolution 874, the House resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 858, with Mr. Flynt in the chair.(10)

§ 20.7 The Committee on Rules, pursuant to its authority under

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9. 111 Cong. Rec. 14705, 14706, 89th Cong. 1st Sess.

10. 116 Cong. Rec. 7690, 7691, 91st Cong. 2d Sess.

Rule XI clause 23 [Rule XI clause 4(b) in the 1979 House Rules and Manual] to call up privileged resolutions relating to the order of business, may provide for the discharge of a standing committee from consideration of a measure pending before that committee.

On Feb. 9, 1972,(11) Mr. Thomas P. O'Neill, Jr., of Massachusetts, called up by direction of the Committee on Rules, and the House adopted, House Resolution 796, providing that upon its adoption the House should immediately resolve itself into the Committee of the Whole for the consideration of House Joint Resolution 1025 (to provide a procedure for the settlement of a dispute on the Pacific Coast and Hawaii among certain shippers and employees), to be managed by the Committee on Education and Labor.

The effect of the resolution was to discharge the Committee on Education and Labor from the further consideration of the joint resolution, as it had not yet been reported to the House by that committee.

Parliamentarian's Note: The Committee on Education and Labor had ordered reported another joint resolution on the same subject, but was unable to file its report because certain Members had, pursuant to Rule XI clause 27(d)(3) [now Rule XI clause 2(l)(5), *House Rules and Manual* § 714 (1979)] requested three calendar days to file supplemental, minority, or additional views.

§ 20.8 Where the House adopts a resolution providing for discharging a legislative committee from the further consideration of the bill pending before that committee, a point of order against the consideration of the bill on the ground that the "Ramseyer Rule" has not been complied with does not lie, since that rule (Rule XIII clause 3) pertains only to bills reported by the committees and not to bills brought before the House by other means.

On Aug. 19, 1964, the House adopted a special order from the Committee on Rules, House Resolution 845, with a committee amendment, providing for the immediate consideration of a bill pending before and not yet reported by a standing committee:(12)

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11. 118 Cong. Rec. 3437, 92d Cong. 2d Sess.

12. 110 Cong. Rec. 20213–21, 88th Cong. 2d Sess.

THE SPEAKER:(13) The Clerk will report the resolution.

The Clerk read as follows:

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11926) to limit jurisdiction of Federal courts in reapportionment cases. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

THE SPEAKER: The Clerk will report the committee amendments.

The Clerk read as follows:

> Committee amendments: Lines 1 and 2, page 1, strike the words "it shall be in order to move that," and line 2, page 1, after the word "House" insert "shall immediately".

THE SPEAKER: Without objection, the committee amendments are agreed to.

There was no objection.

Following the adoption of the resolution, Speaker McCormack overruled a point of order against the consideration of the bill on the grounds that it had not been "properly reported":(14)

MR. [JAMES G.] O'HARA of Michigan: Mr. Speaker, I make a point of order against the consideration of the bill H.R. 11926.

THE SPEAKER: The gentleman will state his point of order.

MR. O'HARA of Michigan: Mr. Speaker, I make a point of order against the consideration of H.R. 11926 on the ground that the bill has not been properly reported in that it purports to amend title 28 of the United States Code, that is, the act of June 25, 1948, chapter 646, but it fails to show in its report or in an accompanying document a comparative print of that part of the bill making and amending the statute or part thereof proposed to be amended as required by part 3, rule XIII, of the House of Representatives.

THE SPEAKER: The Chair is prepared to rule.

Rule XIII, clause 3, provides, "whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document the text of the statute or part thereof which is proposed to be repealed;". It will be noted that the rule only applies when a committee reports a bill. In this case the Committee on the Judiciary did not file a report on H.R. 11926. Therefore, that rule does not apply to the present situation.

In addition, the resolution before the House provides for the House immedi-

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[13] John W. McCormack (Mass.).

[14] 110 CONG. REC. 20221, 20222, 88th Cong. 2d Sess.

ately to resolve itself into the Committee of the Whole House on the State of the Union for the consideration of this particular bill.

The Chair overrules the point of order.

§ 20.9 A point of order that the Committee on Rules has reported a special rule providing for the consideration of a bill prior to the time the bill to be considered was reported and referred to the Union Calendar does not lie.

On June 28, 1930,[15] Mr. Fred S. Purnell, of Indiana, called up by direction of the Committee on Rules House Resolution 264, making in order the consideration of a bill. Mr. Carl R. Chindblom, of Illinois, made a point of order against the report of the Committee on Rules, on the ground that the committee had reported the resolution to the House on June 20, 1930, whereas the bill was first reported to the House on a later date, on June 24, 1930 (and was recommitted twice to the committee of jurisdiction in order to correct errors in the report). Mr. Chindblom asserted that the effect of the resolution was to make it in order to resolve into the Committee of the Whole for the consideration of the bill, but not to waive the "rule which requires bills to be upon the calendar of the House before they can have consideration."

Speaker Nicholas Longworth, of Ohio, overruled the point of order and stated in part as follows:

> . . . The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:
>
> > At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.
>
> Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

§ 20.10 The Committee on Rules may consider any matter that is properly before them, including a provision for the consideration of a bill on which a majority report has not yet been made.

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[15] 72 Cong. Rec. 11994, 11995, 71st Cong. 2d Sess.

On July 30, 1959,[16] Speaker Sam Rayburn, of Texas, answered parliamentary inquiries on the procedures of the Committee on Rules:

> **Mr. [Clare E.] Hoffman** of Michigan: I ask the question, under the rules of the House, can the Committee on Rules report out a bill before they get a majority report from the committee?
>
> **The Speaker**: The gentleman from North Carolina [Mr. Barden] asked unanimous consent, which was obtained, to have until midnight tonight to file a report of the Committee on Education and Labor on the so-called labor bill.
>
> **Mr. Hoffman** of Michigan: My question is until a majority of the committee sign the report, can the Committee on Rules consider the bill?
>
> **The Speaker**: The Committee on Rules has the authority to consider any matter which is properly before them. The Chair would certainly hold that this is properly before the Committee on Rules.
>
> **Mr. Hoffman** of Michigan: Still, there is that word "properly." I was asking a simple question.
>
> **The Speaker**: The Chair has answered the question.

§ 20.11 The Committee on Rules may report a resolution providing for the consideration of a bill, even though the effect be to discharge a committee and bring before the House a bill not yet reported.

On Aug. 19, 1964,[17] Speaker John W. McCormack, of Massachusetts, overruled a point of order against a special order from the Committee on Rules providing for the consideration of a bill not yet reported from the committee:

> **Mr. [Howard W.] Smith** of Virginia: Mr. Speaker, I call up House Resolution 845 and ask for its immediate consideration.
>
> **Mr. [James G.] O'Hara** of Michigan: Mr. Speaker, I make a point of order.
>
> **The Speaker**: The gentleman will state it.
>
> **Mr. O'Hara** of Michigan: Mr. Speaker, I make a point of order against the consideration of House Resolution 845 on the grounds that the Committee on Rules is without jurisdiction to bring such resolution to the floor of the House under the provisions of rule 16 of the Rules of the House of Representatives, and I ask permission to be heard on the point of order.
>
> **The Speaker**: The Chair will hear the gentleman.
>
> **Mr. O'Hara** of Michigan: Mr. Speaker, a review of the precedents of this House reveals occasions on which the House has permitted the Committee on Rules to bring before it resolutions making in order the consideration of bills that have been improperly referred to legislative committees, bills that had not yet been referred to the Committee on Rules, and possibly even a bill not yet introduced. In addition, a decision of the Speaker of the House

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[16] 105 Cong. Rec. 14743, 86th Cong. 1st Sess.

[17] 110 Cong. Rec. 20212, 20213, 88th Cong. 2d Sess.

permitted the consideration of resolution of the Committee on Rules of a bill that had not been placed on the calendar at the time the resolution was reported by the Committee on Rules. However, Mr. Speaker, I can find no occasions on which the House has clearly permitted the Committee on Rules to report to it a resolution making in order the consideration of a bill that had been introduced in the House of Representatives and referred by it—properly referred by it—to one of its legislative committees and not yet reported out or acted upon by that legislative committee to which the bill had been referred.

Mr. Speaker, I move to make this point of order after noting the gentleman from Virginia, the chairman of the Committee on Rules, which reported out House Resolution 845, is on record strongly opposing such action by the Committee on Rules as unprecedented and unwarranted. . . .

The only comparable incident I can find which might provide a precedent for this, Mr. Speaker, was the action taken by this Congress on the price control legislation in the 79th Congress, 2d session, found at page 8059 of the *Congressional Record*. This, however, it might be pointed out, was emergency legislation and a similar version had earlier been reported by a legislative committee, acted upon by the House and vetoed by the President. . . .

The Speaker: Does the gentleman from Virginia [Mr. Smith] desire to be heard on the point of order?

Mr. Smith of Virginia: Just briefly, Mr. Speaker. The rules are perfectly clear. The Committee on Rules, under the rules of the House, may report a rule on any pending bill. This is a pending bill before the Rules Committee and the precedents for that are well established. The rule itself is very plain.

The Speaker: The Chair is prepared to rule.

The Chair finds a precedent in volume 5 of "Hinds' Precedents of the House of Representatives" at section 6771. On February 4, 1895, a similar point of order was raised against an action taken by the Rules Committee. The Speaker at that time, Speaker Crisp, of Georgia, ruled on a point of order made by Mr. Thaddeus M. Mahon, of Pennsylvania. The point of order was the same as that made by the gentleman from Michigan [Mr. O'Hara], that the bill had not been reported from the Committee on War Claims and therefore it was not in order for the Committee on Rules to report a resolution for its consideration in the House.

Speaker Crisp overruled the point of order, holding that the Committee on Rules had jurisdiction to report a resolution fixing the order of business and the manner of considering a measure, even though the effect of its adoption would be to discharge a committee from a matter pending before it, thereby changing the existing rule relative to the consideration of business.

Speaker Crisp further said that it was for the House to determine whether the change in the mode of consideration should be made, as recommended by the committee.

The rules of the House provide that—

> The following-named committees shall have leave to report at any

time on the matters herein stated, viz: The Committee on Rules, on rules, joint rules, and order of business.

The Chair also desires to state that in 1929 a similar point of order was raised. In 1946 and again in 1953 the Committee on Rules reported similar resolutions and on each occasion the precedent established by Speaker Crisp was followed and adhered to.

Therefore, the Chair overrules the point of order.

§ 20.12 The Committee on Rules may report resolutions providing for the immediate consideration of bills not yet reported by the committees to which referred.

On Aug. 19, 1964,(18) the House adopted House Resolution 845, reported by the Committee on Rules, providing for the immediate consideration of H.R. 11926 (limiting the jurisdiction of federal courts in apportionment cases) which was pending before, and not yet reported by, the Committee on the Judiciary.

Following the adoption of the resolution, Speaker John W. McCormack, of Massachusetts, held that a point of order against consideration of the bill did not lie on the ground that the Committee on the Judiciary had not complied with the "Ramseyer" rule (requiring comparative prints in committee report), since that rule only applies where a committee has reported a bill, and not where it has been discharged from consideration of the bill.

Similarly on Mar. 29, 1961, the House agreed to a special order from the Committee on Rules which provided for the immediate consideration of S. 153; the Senate bill had been referred to the Committee on Government Operations and had not yet been reported.(19)

§ 20.13 A privileged resolution, reported by the Committee on Rules, was amended to provide that immediately upon its adoption the House would resolve into the Committee of the Whole to consider a bill pending before, and not yet reported by, the Committee on the Judiciary.

On Aug. 19, 1964,(20) the House passed, as amended by committee amendment, a special order from the Committee on Rules providing for the consideration of a bill pending before but not yet reported by a committee.

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(18) 110 Cong. Rec. 20212, 20213, 88th Cong. 2d Sess.

(19) H. Res. 238, 107 Cong. Rec. 5267, 5268, 87th Cong. 1st Sess.

(20) H. Res. 845, 110 Cong. Rec. 20213, 88th Cong. 2d Sess.

The Speaker:[1] The Clerk will report the resolution.

The Clerk read as follows:

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11926) to limit jurisdiction of Federal courts in reapportionment cases. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The Speaker: The Clerk will report the committee amendments.

The Clerk read as follows:

> Committee amendments: Lines 1 and 2, page 1, strike the words "it shall be in order to move that," and line 2, page 1, after the word "House" insert "shall immediately".

The Speaker: Without objection, the committee amendments are agreed to.

There was no objection.

§ 20.14 The Committee on Rules reported and the House adopted a resolution making in order the immediate consideration of a joint resolution which had not been reported by the committee to which it had been referred.

On June 24, 1965,[2] the House adopted a resolution providing for the consideration of a measure not reported from committee:

> *Resolved,* That, upon the adoption of this resolution, the House shall immediately resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the House joint resolution (H.J. Res. 541) to extend the Area Redevelopment Act for a period of two months. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

Parliamentarian's Note: The Committee on Banking and Currency was in thorough agreement with the procedure and had requested the special order from the Committee on Rules.

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[1] John W. McCormack (Mass.).

[2] H. Res. 433, 111 Cong. Rec. 14705, 89th Cong. 1st Sess.

§ 20.15 The Committee on Rules reported out a resolution, providing for the consideration of a bill, with a committee amendment to the resolution substituting for consideration another designated bill on the same subject, which bill had not been reported by the committee to which referred.

On Aug. 8, 1949, Mr. Ray J. Madden, of Indiana, called up by direction of the Committee on Rules a special order for the consideration of a bill, with a committee amendment:

Mr. Madden: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 183 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3190) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Education and Labor now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

With the following committee amendments:

> Page 1, line 4, strike out "(H.R. 3190)" and insert "(H.R. 5856)."
>
> Page 2, line 1, strike out the remainder of the line after the period and all of lines 2 through 6, inclusive.[3]

In debate on the resolution, Mr. James W. Wadsworth, Jr., of New York, of the Committee on Rules explained the provisions of the resolution in part as follows:

Mr. Wadsworth: . . . This new bill, H.R. 5856, has never been reported by the Committee on Education and Labor. Just what would be its fate if it had come to a vote before that committee I am not prepared to say. But, there appeared before the Committee on Rules the supporters of the so-called second Lesinski bill, H.R. 5856, with the plea that instead of our granting a rule on H.R. 3190, the original bill, which otherwise would have come up today under the 21-day rule, we report a rule on the new bill, H.R. 5856, a bill not yet considered officially by the Committee on Education and Labor.(4)

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[3] 95 Cong. Rec. 10988, 81st Cong. 1st Sess.

The House agreed to the resolution as amended.

Consideration of Union Calendar Bill in House

§ 20.16 Form of special rule providing for the consideration of a Union Calendar bill in the House, waiving all points of order, fixing time for debate, and ordering the previous question at the conclusion of such debate.

The following resolution was under consideration on Mar. 11, 1933:(5)

House Resolution 32

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of H.R. 2820, a bill to maintain the credit of the United States Government, and all points of order against said bill shall be considered as waived; that, after general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Economy, the previous question shall be considered as ordered on the bill to final passage.

Consideration of Union Calendar Bills in the House as in Committee of the Whole

§ 20.17 Form of resolution authorizing a standing committee to call up a list of enumerated bills and providing for their consideration in the House as in the Committee of the Whole.

The following resolution was under consideration on June 2, 1936:(6)

Resolved, That upon the adoption of this resolution it shall be in order for the Committee on the Judiciary to call up for consideration, without the intervention of any point of order, the following bills:

S. 3389. An act to provide for the appointment of two additional judges for the southern district of New York.

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4. *Id.* at p. 10991.

5. 77 Cong. Rec. 198, 73d Cong. 1st Sess.

6. H. Res. 528, 80 Cong. Rec. 8746, 74th Cong. 2d Sess. See also 80 Cong. Rec. 9966, 74th Cong. 2d Sess., June 18, 1936.

S. 2075. An act to provide for the appointment of additional district judges for the eastern and western districts of Missouri.

S. 2137. An act to provide for the appointment of one additional district judge for the eastern, northern, and western districts of Oklahoma.

S. 2456. An act to provide for the appointment of an additional district judge for the northern and southern districts of West Virginia.

H.R. 11072. A bill authorizing the appointment of an additional district judge for the eastern district of Pennsylvania.

H.R. 3043. A bill to provide for the appointment of an additional district judge for the northern district of Georgia.

Each such bill when called up shall be considered in the House as in the Committee of the Whole. After general debate on each such bill, which shall continue not to exceed 20 minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the 5-minute rule.

Parliamentarian's Note: Some of the bills dealt with by this special order were on the Union Calendar, and others had not been reported by the Committee on the Judiciary.

Consideration of House Resolution in Committee of the Whole

§ 20.18 The Committee on Rules reported a resolution providing for consideration of a privileged resolution, amending the rules of the House, under a procedure permitting amendments under the five-minute rule.

On Mar. 7, 1973, the House adopted a resolution from the Committee on Rules providing for the consideration of a privileged resolution reported by that committee:(7)

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 259) to amend the Rules of the House of Representatives to strengthen the requirement that committee proceedings be held in open session. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

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7. H. Res. 272, 119 Cong. Rec. 6700–05, 93d Cong. 1st Sess.

Parliamentarian's Note: The resolution provided for in the special order was privileged for consideration, since amending the rules of the House, and therefore did not require a special order from the Committee on Rules. Since the resolution would only have been debatable under the hour rule in the House, however, a special order was reported in order to allow more extensive debate in Committee of the Whole and to allow germane amendments to be offered.

§ 20.19 Form of special order providing for consideration in Committee of the Whole, without the opportunity of amendment, of a House resolution referred to the House Calendar (confirming the nomination of the Vice President under the 25th amendment to the U.S. Constitution).

The following resolution was under consideration on Dec. 6, 1973:[8]

H. Res. 738

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 735) confirming the nomination of Gerald R. Ford, of the State of Michigan, to be Vice President of the United States. After general debate, which shall be confined to the resolution and shall continue not to exceed six hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the Committee shall rise and report the resolution to the House, and the previous question shall be considered as ordered on the resolution to final passage.

§ 20.20 Form of special rule making in order the consideration of a simple resolution in Committee of the Whole.

The following resolution was under consideration on Aug. 23, 1935:[9]

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of House Resolution 350, a resolution requesting that the Commissioner of Immigration and Naturalization be requested to continue to stay the deportation in the cases of aliens of good character in which deportations would result in unusual hardship until Congress had had adequate time to consider proposed legislation. That after general debate, which shall be confined to the resolution and shall continue not to exceed 1 hour, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Immigration and Naturalization, the resolution shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the resolution for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

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[8] 119 Cong. Rec. 39807, 93d Cong. 1st Sess.

[9] H. Res. 362, 79 Cong. Rec. 14371, 74th Cong. 1st Sess.

§ 20.21 Form of resolution providing "open" rule for consideration in Committee of the Whole of a resolution reported from the Committee on House Administration, and referred to the House Calendar, making office space and certain emoluments available to the retiring Speaker.

The following resolution was under consideration on Dec. 22, 1970:(10)

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 1238) relating to the Speaker of the House of Representatives in the Ninety-first Congress. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 20.22 The House considered a House resolution, reported from the Committee on House Administration and referred to the House Calendar, in Committee of the Whole under an "open" rule.

On Dec. 3, 1970, the House considered in the Committee of the Whole a simple resolution reported from the Committee on House Administration, pursuant to a special rule, where the resolution had been referred to the House Calendar:(11)

Resolved, That upon the adoption of this resolution it shall be in order to

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10. H. Res. 1309, 116 Cong. Rec. 43313, 91st Cong. 2d Sess.

11. H. Res. 1272, 116 Cong. Rec. 39846, 91st Cong. 2d Sess.

move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 1147) relating to certain allowances of Members, officers, and standing committees of the House of Representatives, and for other purposes. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the resolution shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on House Administration as an original resolution for the purpose of amendment under the five-minute rule, and all points of order against sections 2(a) and 3(a) of said substitute are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the resolution or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

§ 20.23 A resolution amending the rules of the House was, pursuant to the provisions of a resolution reported from the Committee on Rules, considered in the Committee of the Whole under an "open" rule.

On May 26, 1970, the House considered a House resolution which had been referred to the House Calendar in the Committee of the Whole pursuant to a special order:[12]

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 796) amending the Rules of the House of Representatives relating to financial disclosure. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Standards of Official Conduct, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the resolution and amendment thereto to final passage without intervening motion except one motion to recommit.

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[12] H. Res. 971, 116 Cong. Rec. 17012, 17013, 91st Cong. 2d Sess.

Consideration of Resolution in House Under Special Rule

§ 20.24 Where the House adopts a resolution providing for the immediate consideration of another resolution in the House, the Speaker directs the Clerk to report that resolution without its being called up by the Member in charge.

On Jan. 31, 1973, the House adopted the following resolution, reported from the Committee on Rules, providing for the consideration in the House of another resolution reported from the Committee on Rules (creating a select committee to study the operations of Rule X and Rule XI, relating to committees of the House and their procedures):(13)

> *Resolved,* That immediately upon the adoption of this resolution the House shall proceed to the consideration of the resolution (H. Res. 132) to create a select committee to study the operation and implementation of rules X and XI of the Rules of the House of Representatives. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the previous question shall be considered as ordered on the resolution to its adoption or rejection.

Following the adoption of the special order, the House proceeded as follows to consider the resolution creating the select committee:(14)

> THE SPEAKER:(15) The Clerk will report House Resolution 132.
>
> The Clerk read the resolution, as follows:
>
> H. RES. 132
>
> *Resolved,* That there is hereby created a select committee to be composed of ten Members of the House of Representatives to be appointed by the Speaker, five from the majority party and five from the minority party, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the manner in which the original appointment was made.
>
> The select committee is authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of rules X and XI of the Rules of the House of Representatives, including committee structure of the House, the number and optimum size of committees, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities.
>
> The select committee is authorized and directed to report to the House by bill, resolution, or otherwise, with respect to any matters covered by this resolution.

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13. H. Res. 176, 119 CONG. REC. 2804, 93d Cong. 1st Sess.

14. *Id.* at p. 2812.

15. Carl Albert (Okla.).

For the purposes of this resolution, the select committee or any subcommittee thereof is authorized to sit and act during sessions of the House and during the present Congress at such times and places whether or not the House has recessed or adjourned. The majority of the members of the committee shall constitute a quorum for the transaction of business, except that two or more shall constitute a quorum for the purpose of taking evidence.

To assist the select committee in the conduct of its study under this resolution, the committee may employ investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants; and all expenses of the select committee, not to exceed $1,500,000 to be available one-half to the majority and one-half to the minority, shall be paid from the contingent fund of the House on vouchers signed by the chairman of the select committee and approved by the Speaker.

The Speaker: The gentleman from Missouri (Mr. Bolling) will be recognized for 30 minutes, and the gentleman from Nebraska (Mr. Martin) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Missouri (Mr. Bolling).

Parliamentarian's Note: House Resolution 132, creating the select committee, was not privileged because of the funding mechanism in the final paragraph.

Consideration of Private Bills

§ 20.25 The House considered a private bill under a special rule.

On Aug. 13, 1940, the House agreed to a resolution, called up by Mr. Edward E. Cox, of Georgia, at the direction of the Committee on Rules, providing for the consideration in the Committee of the Whole of a private bill:(16)

House Resolution 407

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of H.R. 7230, a bill to provide for an appeal to the Supreme Court of the United States from the decision of the Court of Claims in a suit instituted by George A. Carden and Anderson T. Herd. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

The bill failed of final passage in the House after consideration in Committee of the Whole.

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16. 86 Cong. Rec. 10258-67, 76th Cong. 3d Sess.

§ 20.26 Form of resolution authorizing the chairman of a standing committee to call up private claim bills and providing for their consideration in the House as in the Committee of the Whole.

The following resolution was under consideration on June 5, 1934:[17]

> *Resolved*, That upon the adoption of this resolution it shall be in order for the Speaker on any day during the remainder of this session of Congress, after the reading of the Journal and the disposition of matters on the Speaker's table, to recognize the Chairman of the Committee on Claims to call up bills favorably reported from the Committee on Claims and heretofore objected to. Said bills shall be considered in the House as in the Committee of the Whole House: *Provided, however*, That general debate on any bill called up shall be limited to 20 minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Claims. At the conclusion of the general debate the bill shall be read for amendment under the 5-minute rule, and at the conclusion of such reading the previous question shall be considered as ordered without intervening motion except one motion to recommit.

Rescinding Previous Resolution

§ 20.27 By resolution, considered by unanimous consent, the House rescinded a previously adopted resolution whereby a bill had been referred to the Court of Claims for a report, and the court was directed to return the bill.

On Apr. 30, 1957, the House adopted a resolution rescinding the adoption by the House of a previous resolution which had referred a private bill to the Court of Claims for a report:[18]

Mr. [Thomas J.] Lane [of Massachusetts]: Mr. Speaker, I offer a resolution (H. Res. 241) and ask for its immediate consideration.

The Clerk read the resolution as follows:

> *Resolved*, That the adoption by the House of Representatives of House Resolution 174, 85th Congress, is hereby rescinded. The United States Court of Claims is hereby directed to return to the House of Representatives the bill (H.R. 2648) entitled "A bill for the relief of the MacArthur Mining Co., Inc., in receivership," together with all accompanying papers, referred to said court by said House Resolution 174.

The Speaker:[19] Is there objection to the request of the gentleman from Massachusetts?

Mr. [Frank T.] Bow [of Ohio]: Mr. Speaker, reserving the right to object, has this matter been cleared with the leadership on this side?

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[17] H. Res. 421, 78 Cong. Rec. 10548, 73d Cong. 2d Sess.

[18] 103 Cong. Rec. 6159, 85th Cong. 1st Sess.

[19] Sam Rayburn (Tex.).

THE SPEAKER: It has been cleared with everybody, so the Chair has been informed.

MR. BOW: I withdraw my reservation of objection.

THE SPEAKER: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Consideration of Motion to Suspend Rules

§ 20.28 Form of resolution providing that the time for debate on a motion to suspend the rules and pass a concurrent resolution shall be extended to four hours, such time to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Foreign Affairs and such motion shall be the continuing order of business of the House until finally disposed of.

The following resolution was under consideration on Sept. 20, 1943:(20)

> *Resolved,* That the time for debate on a motion to suspend the rules and pass House Concurrent Resolution 25 shall be extended to 4 hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and said motion to suspend the rules shall be the continuing order of business of the House until finally disposed of.

Parliamentarian's Note: This resolution was itself passed under a motion to suspend the rules. Following its adoption Speaker Sam Rayburn, of Texas, ruled that a demand for a second, to gain control of time in opposition to the motion provided for, was not necessary, the House already having fixed control of debate on the motion.

Consideration of Nonprivileged Rules Committee Reports

§ 20.29 Although the Committee on Rules has authority under clause 23 to report as privileged a resolution creating a select House committee, the inclusion therein of a subject coming within the jurisdiction of another standing committee destroys its privilege, and it is therefore necessary for the committee to report a privileged resolution making in order the consideration of the nonprivileged matter reported by it.

On Jan. 31, 1973,(1) Mr. Ray J. Madden, of Indiana, called up by

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20. H. Res. 302, 89 CONG. REC. 7646, 78th Cong. 1st Sess.

1. 119 CONG. REC. 2804, 93d Cong. 1st Sess.

direction of the Committee on Rules House Resolution 176, a privileged order of business making in order the consideration of House Resolution 132, another resolution reported from the Committee on Rules creating a select committee. The first resolution was necessary because House Resolution 132 was not a privileged resolution under Rule XI clause 23 [now Rule XI clause 4(b) in the 1979 *House Rules and Manual*], since paying money from the contingent fund on vouchers approved by the Speaker (a matter within the jurisdiction of the Committee on House Administration).

House Resolution 176, which was adopted by the House, read as follows:

H. Res. 176

> *Resolved,* That immediately upon the adoption of this resolution the House shall proceed to the consideration of the resolution (H. Res. 132) to create a select committee to study the operation and implementation of rules X and XI of the Rules of the House of Representatives. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the previous question shall be considered as ordered on the resolution to its adoption or rejection.

Similarly on June 8, 1937, the House adopted a resolution from the Committee on Rules making in order the consideration of a bill from the Committee on Rules creating a joint committee, where the bill was not privileged for consideration:(2)

House Resolution 226

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of Senate Joint Resolution 155, a joint resolution to create a Joint Congressional Committee on Tax Evasion and Avoidance, and all points of order against said joint resolution are hereby waived. That after general debate, which shall be confined to the joint resolution and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the joint resolution for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

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2. 81 Cong. Rec. 5442, 75th Cong. 1st Sess.

Making in Order Motion to Recommit Proposition Reported by Rules Committee

§ 20.30 A motion to recommit a proposition reported by the Committee on Rules may be made in order by a special rule to that effect.

On May 25, 1970, the House adopted the following resolution reported from the Committee on Rules providing for the consideration of (and allowing a motion to recommit) a joint resolution also reported from that committee:

H. Res. 1021

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1117) to establish a Joint Committee on Environment and Technology. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.(3)

Parliamentarian's Note: Rule XI clause 4(b) [*House Rules and Manual* (1979)], relating to privileged Rules Committee reports, has been interpreted to bar the motion to recommit as applied to reports called up as privileged under that rule. (See, for example, 5 Hinds' Precedents § 5594.) But where a special rule provides for the consideration of another matter reported from the Rules Committee, the special rule may provide for a motion to recommit whether or not the matter could have been called up as privileged. (The motion to recommit nonprivileged matter from the Committee on Rules—such as the joint resolution described above, which contained nonprivileged matter—may be permitted on the same basis as other motions to recommit, under Rule XVII clause 1 [*House Rules and Manual* (1979)]. The motion to recommit under that rule has also been interpreted as applying to simple House resolutions as well as bills; see 8 Cannon's Precedents § 2742.)

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3. 116 Cong. Rec. 16973, 91st Cong. 2d Sess.

Making in Order Motion to Recess

§ 20.31 Where a special rule gives a highly privileged status to a motion for a recess, such motion takes precedence over a motion to adjourn.

On June 4, 1934,(4) Speaker Henry T. Rainey, of Illinois, ruled that a motion to recess, given privilege by a special rule, took precedence over a motion to adjourn:

Mr. [Joseph W.] Byrns [of Tennessee]: Mr. Speaker, under the rules it is in order today to call up bills under suspension of the rules and to call the Consent Calendar. We have been here since 11 o'clock. The entire day has been taken up in suspensions. There are quite a number of bills on the Unanimous Consent Calendar. A number of Members have come to me and said they were very anxious to have those bills called. Perhaps this will be the last time the Consent Calendar can be called during this session. I think it is only fair that this legislative day shall go over until tomorrow.

Mr. Speaker, I move that the House stand in recess until 11 o'clock tomorrow.

Mr. [Gerald J.] Boileau [of Wisconsin]: Mr. Speaker, I offer a preferential motion.

Mr. Speaker, I move that the House do now adjourn.

Mr. Byrns: Mr. Speaker, under the rule adopted last week my motion is highly privileged.

The Speaker: The gentleman from Wisconsin cannot be recognized.

The special rule referred to was reported from the Committee on Rules and adopted on June 1, 1934:

Mr. [William B.] Bankhead [of Alabama]: Mr. Speaker, I call up a privileged report (Rept. No. 1856) from the Committee on Rules (H. Res. 410) and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 410

Resolved, That during the remainder of the second session of the Seventy-third Congress it shall be in order for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII; it shall also be in order at any time during the second session of the Seventy-third Congress for the majority leader to move that the House take a recess, and said motion is hereby made of the highest privilege; and it shall also be in order at any time during the second session of the Seventy-third Congress to consider reports from the Committee on Rules, as provided in clause 45, rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during the remainder of this session of Congress.(5)

Adopting Special Order Relating to Bill Already Under Consideration in Committee of the Whole

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4. 78 Cong. Rec. 10470, 10471, 73d Cong. 2d Sess.

5. *Id.* at p. 10239.

§ 20.32 Where a section in a bill pending before the Committee of the Whole was struck out on a point of order (as constituting an appropriation on a legislative bill), the Committee rose, the House took a recess, and the Committee on Rules met and reported to the House a resolution which the House adopted, making in order an amendment to such bill in Committee of the Whole to reinsert the section which had been stricken out.

On Mar. 29, 1933, the Committee of the Whole was considering S. 598 (reforestation and unemployment relief) pursuant to a unanimous-consent request that the Senate bill be in order for consideration, instead of a similar House bill (H.R. 3905) which had previously been made a special order of business for that day (also by unanimous consent).

Chairman Ralph F. Lozier, of Missouri, sustained a point of order against section 4 of the Senate bill, on the grounds that it constituted an appropriation on a legislative bill in violation of Rule XXI clause 4 [see § 846 *House Rules and Manual* (1979)], and section 4 was thus stricken from the bill. Immediately following the Chair's ruling, the Committee rose and a motion for a recess was adopted (at 5:42 p.m.).(6)

The recess having expired at 5:52 p.m., Speaker Henry T. Rainey, of Illinois, called the House to order and Mr. William B. Bankhead, of Alabama, reported and called up by direction of the Committee on Rules (which had met during the recess) a special order making in order an amendment to the Senate bill pending before the Committee of the Whole:(7)

> The recess having expired (at 5 o'clock and 52 minutes p.m.), the House was called to order by the Speaker.
>
> **Mr. Bankhead**: Mr. Speaker, by direction of the Committee on Rules, I report a privileged resolution, which I send to the desk and ask for its immediate consideration.
>
> **Mr. [Joseph B.] Shannon** [of Missouri]: Mr. Speaker, does not the rule have to lie over for a day?
>
> **The Speaker**: It does not.
>
> The Clerk will report the resolution.
>
> The Clerk read as follows:
>
> House Resolution 85
>
> *Resolved*, That upon the adoption of this resolution it shall be in order to offer as an amendment in Committee of the Whole House on the state of the Union to the bill S. 598 the following language:

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(6) 77 Cong. Rec. 988–990, 73d Cong. 1st Sess.

(7) *Id.* at p. 990.

> "Sec. 4. For the purpose of carrying out the provisions of this act, there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary; and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated."
>
> All points of order against said amendment shall be considered as waived in the House and in the Committee of the Whole House on the state of the Union. . . .

The Speaker: It requires a two-thirds vote to consider it. The question is, Shall the House consider the resolution?

The question was taken; and on a division (demanded by Mr. Snell) there were—ayes 189, noes 71.

So (two-thirds having voted in favor thereof) the House determined to consider the resolution.

Mr. Bankhead: Mr. Speaker, I move the previous question on the adoption of the resolution.

The previous question was ordered.

The Speaker: The question is on agreeing to the resolution.

The resolution was agreed to.

The Committee of the Whole resumed its sitting and proceeded to consider the amendment:(8)

Mr. [Robert] Ramspeck [of Georgia]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 598) for the relief of unemployment through the performance of useful public work, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 593, with Mr. Lozier in the Chair.

The Clerk read the title of the bill.

Mr. Ramspeck: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Ramspeck: Page 3, after line 21, insert the following:
>
> "Sec. 4. For the purposes of carrying out the provisions of this act there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary; and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated."

Mr. [John J.] Cochran [of Missouri]: Mr. Chairman, I offer an amendment to the amendment.

Mr. Ramspeck: Mr. Chairman, this simply puts back in the bill section 4 exactly, which was ruled out on the point of order.

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[8] *Id.*

I move that all debate on this section do now close.

§ 20.33 A resolution waiving points of order against a certain provision in a general appropriation bill was considered and agreed to by the House after the general debate on the bill had been concluded and reading for amendment had begun in Committee of the Whole.

On May 21, 1969, general debate had been concluded in Committee of the Whole on H.R. 11400, the supplemental appropriations bill, and the first section of the bill had been read for amendment when the Committee rose.

The House then adopted a special order from the Committee on Rules which waived points of order against one section of the bill:[9]

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 414 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 414

Resolved, That during the consideration of the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes, all points of order against title IV of said bill are hereby waived.

MR. COLMER: Mr. Speaker, I yield the customary 30 minutes to the minority, to the very able and distinguished gentleman from California (Mr. Smith). Pending that I yield myself such time as I may consume.

Mr. Speaker, I shall not use all the time on this resolution. This is a rather unusual situation that we find ourselves in, parliamentarily speaking. We have debated the supplemental appropriation bill at some length under the privileged status of the Appropriations Committee. Now we come in with a resolution from the Rules Committee for one purpose and one purpose alone; that is, to waive points of order against a particular section of the bill.

§ 21. "Open" Rules Allowing Amendments and Making in Order Certain Amendments

The term "open rule" is often used to refer to a resolution reported from the Committee on Rules which provides for the consideration of a bill or resolution in the Committee of the Whole, and provides for the bill to be read for amendment under the five-minute rule, without restricting the offering of germane amendments. (A "closed" or "modified closed" rule typically provides that no amendments may be offered except by the direction of the reporting committee or except certain amendments, such amendments not to be subject to amendment.)

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[9] 115 CONG. REC. 13246–51, 91st Cong. 1st Sess.

Under an open rule, any amendments may be offered which are otherwise in order under the rules of the House.(10)

A resolution allowing amendments may contain detailed provisions. For example, the special order frequently provides that a committee amendment in the nature of a substitute may be read as an original bill for the purpose of amendment.(11)

The resolution may waive points of order against a designated amendment by providing that it shall be in order to offer such amendment without the intervention of any point of order.(12) But the waiver of points of order is confined only to the amendment to which directed. Thus, if parts of the amendment made in order are offered as independent amendments they must comply with the rules of the House,(13) and independent amendments offered to amendments or to original text protected by waivers must be germane and otherwise in order under the rules.(14)

Where a resolution makes in order a designated amendment but does not attach a particular priority to such amendment (such as an amendment in the nature of a substitute made in order but not to be read for amendment as an original bill), recognition to offer the amendment is governed by the ordinary practices as to recognition and offering amendments.(15)

Similar to an open rule which makes in order a designated amendment is a "modified open" rule which prohibits a certain amendment or type of amendment, while allowing other amendments otherwise in order.(16)

Cross References

As to procedures in Committee of the Whole, generally, see Ch. 19, supra.

As to amendments generally, see Ch. 27, infra.

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10. See § 21.1, infra.

The procedure whereby a measure is considered in the "House as in the Committee of the Whole" presents another context in which a measure is usually "open" to amendment. Such procedure, however, in which a measure is read for amendment under the five-minute rule, is usually followed pursuant to a unanimous-consent request and not by a special order. But see § 20.17, supra.

11. See § 25, infra, for discussion of reading bills and amendments in the nature of a substitute thereto under special rules.

12. See §§ 21.3–21.10, infra.

13. See § 21.13, infra.

14. See § 23, infra.

15. See §§ 21.3, 21.11, infra.

16. See §§ 21.15–21.17, infra.

As to offering amendments to bills and amendments protected against points of order, see § 23, infra.

As to waiving points of order against bills considered under "open" rules, see § 23, infra.

As to waiving points of order against designated amendments, see § 23, infra.

As to Senate bills considered under an "open" rule, see § 27, infra.

Offering Amendments Under "Open" Rules

§ 21.1 Where a bill is considered under an "open rule," germane amendments to the bill are in order under the standing rules of the House.

On July 26, 1965,(17) Adam C. Powell, of New York, Chairman of the Committee on Education and Labor, called up under the 21-day discharge rule a resolution making a special order of business:

H. RES. 437

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 77) to repeal section 14(b) of the National Labor Relations Act, as amended, and section 705(b) of the Labor-Management Reporting and Disclosure Act of 1959 and to amend the first proviso of section 8(a)(3) of the National Labor Relations Act, as amended. After general debate, which shall be confined to the bill, and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. Powell then offered an amendment to the resolution to extend the time for general debate on the bill from two hours to five hours. Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries on offering amendments to the bill under the provision of the "open" rule:

THE SPEAKER: Will the gentleman state his parliamentary inquiry.

MR. GERALD R. FORD [of Michigan]: The parliamentary inquiry would be simply this: Does the amendment of the gentleman to the resolution provide that there can be amendments offered to the bill itself, that will be meaningful,

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17. 111 CONG. REC. 18076, 89th Cong. 1st Sess.

that will be constructive in their application; or is his amendment to the rule limited only to the extension of time for debate?

The Speaker: The Chair will state that the pending amendment relates in no way to any other amendments which might be germane under the resolution. This amendment would extend the time for general debate from 2 hours to 5 hours, if the amendment is adopted.

Mr. Gerald R. Ford: A further parliamentary inquiry, Mr. Speaker.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Gerald R. Ford: Do I correctly understand that the gentleman's amendment to the resolution precludes the offering of any amendment such as that sponsored by the distinguished gentlewoman from Oregon [Mrs. Green]?

The Speaker: The Chair will state that the resolution is in accordance with the standing rules of the House, and any amendment that is germane under the standing rules of the House would be in order. The standing rules of the House would determine the germaneness of any amendment that might be offered.

Special Orders "Open" in Part, "Closed" in Part

§ 21.2 Forms of special orders dividing general debate between two committees and providing that one part of the bill, within one committee's jurisdiction, be open to amendment and that the other part of the bill, within the other committee's jurisdiction, be closed to amendment.

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14465) to provide for the expansion and improvement of the Nation's airport and airway system, for the imposition of airport and airway user charges, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, title I of the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of title I of the bill for amendment, title II of the bill shall be considered as having been read for amendment. No amendments shall be in order to title II of the bill except amendments offered by the direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.[18]

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention, of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, three hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of title II of the amendment in the nature of a substitute for amendment, title III of said substitute shall be considered as having been read for amendment. No amendments shall be in order to title III of said substitute except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.[19]

All Points of Order Waived Against Designated Amendments

§ 21.3 Where a special rule provided that amendments relating to a certain subject matter could be offered as substitutes for the pending bill, notwithstanding any rule of the House to the contrary, the Chairman of the Committee of the Whole explained the parliamentary situation.

On Mar. 19, 1935, the House adopted House Resolution 165, reported from the Committee on Rules and providing for the consideration of a bill for the payment of world war adjusted service certificates:

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[18] H. Res. 610, 115 Cong. Rec. 33260, 91st Cong. 1st Sess., Nov. 6, 1969.

[19] H. Res. 1216, 116 Cong. Rec. 33296, 91st Cong. 2d Sess., Sept. 23, 1970.

> *Resolved,* That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H.R. 3896, "a bill to provide for the immediate payment of World War adjusted-service certificates, to extend the time for filing applications for benefits under the World War Adjusted Compensation Act, and for other purposes"; and all points of order against said bill are hereby waived; that after general debate, which shall be confined to the bill and continue not to exceed 10 hours, to be evenly divided and controlled by the chairman and ranking minority members of the Committee on Ways and Means, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider as substitute amendments for the bill any such amendments that relate to the payment of World War adjusted-service certificates, and such substitute amendments shall be in order, any rule of the House to the contrary notwithstanding. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except two motions to recommit, with or without instructions: *Provided, however,* That if the instructions in such motions relate to the payment of World War adjusted-service certificates, they shall be in order, any rule of the House to the contrary notwithstanding.[20]

On Mar. 21, 1935, the bill was being considered pursuant to the special order in Committee of the Whole, and all time for general debate had expired. Chairman Clarence Cannon, of Missouri, made a statement regarding the procedure under which the bill would be considered for amendment:[1]

> THE CHAIRMAN: The time of the gentleman from Kentucky [Mr. Vinson] has expired. All time has expired. The Chair will briefly recapitulate the parliamentary situation.
>
> This is an unusual rule—but a very adequate one. The Chairman of the Committee on Rules and his committee are to be congratulated on the admirable manner in which they have met a difficult situation.
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> Under the special order, all amendments pertaining to the payment of the adjusted-service certificates are in order, the rules of the House to the contrary notwithstanding. At a time when it is the vogue to term all special rules "gag rules", here is a special order which

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[20] 79 CONG. REC. 3984, 74th Cong. 1st Sess.

[1] *Id.* at p. 4216.

liberalizes, instead of restricts, the rules of the House. As Chairman O'Connor well says, it is the antithesis of a gag rule.

Under the clause waiving the restrictions of the rules of the House against any proposition to pay adjusted-service certificates, it permits consideration of the Patman bill, the Cochran bill, the McReynolds bill, the Andrew bill, and similar measures which otherwise, could not be considered because not germane. Accordingly, after conference with the Speaker, the Chairman of the Committee on Rules, the majority leader, and the authors of the several bills, the Chair will recognize Members who desire to offer major amendments in the following order:

The first section of the pending bill, the Vinson bill, having been read for amendment, the Chair will recognize the gentleman from Texas [Mr. Patman] to offer his bill as a subsitute for the Vinson bill. While it will be offered as a substitute, it will be, technically speaking, an amendment. Then the gentleman from Missouri [Mr. Cochran] will be recognized to offer his bill as a substitute for the Patman bill in the pending amendment to the Vinson bill. If the gentleman from Tennessee [Mr. McReynolds] desires, he will then be recognized to offer his bill as an amendment to the Cochran bill or, if he prefers to await a vote on the Cochran substitute and the Cochran substitute is disposed of adversely, he may then offer his bill as a substitute for the Patman bill in the amendment to the Vinson bill. We may have pending at the same time an amendment, an amendment to the amendment, a substitute for the amendment, and an amendment to the substitute. All four forms of amendment may be pending simultaneously. That is the limit, as any further proposal would be an amendment in the third degree.

Under the rules of the House, an amendment is perfected before it is voted on. Any substitute is then perfected; and then, both the amendment and the substitute for the amendment having been perfected, the Committee takes its choice of the two. It should also be borne in mind that the Committee, having chosen one of the two, and having adopted either the amendment or the substitute for the amendment, it is then too late to offer further perfecting amendments.

If the various bills are offered in the order indicated, the Vinson bill comprises the text of the bill; the Patman bill is the amendment to the text; the Cochran bill is the substitute for the amendment to the text; and any further bill proposed is an amendment to the substitute.

The question will come first on perfecting amendments to the Patman bill; second, on perfecting amendments to the Cochran bill. The two bills having been perfected, the Committee will then vote on substituting the Cochran bill—or the Cochran bill, as amended—for the Patman bill. The question will then recur on adopting the prevailing bill as an amendment to the Vinson bill.

Designated Amendments Made in Order

§ 21.4 Form of resolution making in order, and waiving points of order against, designated amendment.

The following resolution was under consideration on June 13, 1973:(2)

H. Res. 437

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8410) to continue the existing temporary increase in the public debt limit through November 30, 1973, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clause 4, rule XXI, are hereby waived. After general debate which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order an amendment to the bill H.R. 8410 which shall consist of the text of H.R. 3932, as passed by the House by a vote of two hundred and twenty-nine yeas to one hundred and seventy-one nays on May 1, 1973, with conforming changes in section numbers and internal references to comply with the bill H.R. 8410. At the conclusion of the consideration of H.R. 8410 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

As a further example, a resolution was considered on Apr. 17, 1973, as follows:(3)

H. Res. 356

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 502) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amend-

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2. 119 Cong. Rec. 19337, 93d Cong. 1st Sess.

3. *Id.* at p. 12793.

ment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 16(c), rule XI, and clause 4, rule XXI, are hereby waived. It shall also be in order to consider without the intervention of any point of order as an amendment to section 123 of the committee amendment in the nature of a substitute the text of the proposed amendment as set forth on pages 125 and 126 of the minority views accompanying House Report 93-118. At the conclusion of the consideration of the bill (S. 502) for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

§ 21.5 Form of resolution providing for the consideration of a bill and making in order, any rule of the House to the contrary notwithstanding, a certain type of amendment.

The following resolution was under consideration on Dec. 5, 1945:[4]

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4649) to enable the United States to further participate in the work of the United Nations Relief and Rehabilitation Administration. That after general debate, which shall be confined to the bill and continue not to exceed 1 day, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider, any rule of the House to the contrary notwithstanding, an amendment prohibiting the use of funds involved in the bill (H.R. 4649) in countries that refuse free access to examination of United Nations Relief and Rehabilitation Administration operations by representatives of the United States press and radio. At the conclusion of the reading of the bill for amendment, the committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 21.6 Form of resolution consecutively making in order and waiving points of order against the consideration of the texts of three designated bills if offered as amendments in the nature of a substitute for the pending bill.

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[4] H. Res. 444, 91 Cong. Rec. 11477, 79th Cong. 1st Sess.

The following resolution was under consideration on Oct. 9, 1973:(5)

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9682) to reorganize the governmental structure of the District of Columbia, to provide a charter for local government in the District of Columbia subject to acceptance by a majority of the registered qualified electors in the District of Columbia, to delegate certain legislative powers to the local government, to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia, and for other purposes, and all points of order against sections 202, 204, 713, 722, and 731 of said bill for failure to comply with the provisions of clause 4, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the District of Columbia, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the text of the bill H.R. 10597 if offered as an amendment in the nature of a substitute for the bill H.R. 9682. If said amendment in the nature of a substitute is not agreed to in the Committee of the Whole, it shall then be in order to consider without the intervention of any point of order the text of the bill H.R. 10693 if offered as an amendment in the nature of a substitute for the bill H.R. 9682. If said amendment in the nature of a substitute (H.R. 10693) is not agreed to in the Committee of the Whole, it shall then be in order to consider without the intervention of any point of order the text of the bill H.R. 10692 if offered as an amendment in the nature of a substitute for the bill H.R. 9682. At the conclusion of the consideration of H.R. 9682 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 9682, the Committee on the District of Columbia shall be discharged from the further consideration of the bill S. 1435, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 9682 as passed by the House.

§ 21.7 Form of resolution providing for consideration in Committee of the Whole of a Senate bill (the Legislative Reorganization Act of 1946) and making in order (as an amendment in the nature

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5. H. Res. 581, 119 Cong. Rec. 33352, 93d Cong. 1st Sess.

of a substitute) the provisions contained in a committee print and previously inserted in the Congressional Record.

The following resolution was under consideration on July 25, 1946:(6)

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2177) to provide for increased efficiency in the legislative branch of the Government, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed two hours, to be equally divided and controlled by the gentleman from Oklahoma, Mr. Monroney, and the gentleman from Michigan, Mr. Michener, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order as a substitute for the bill the provisions contained in the committee print of July 20, 1946, and printed in the Congressional Record of July 19, 1946, page 9496, and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 21.8 The House rejected the previous question on a resolution reported from the Committee on Rules which in part sought to make the text of a specified bill in order as an amendment. The House then adopted an amendment making the text of a different bill in order as an amendment in the nature of a substitute. The amendment to the resolution further struck out provisions in the resolution waiving points of order against nongermane committee amendments.

On Apr. 16, 1973, Mr. Richard Bolling, of Missouri, called up by direction of the Committee on Rules the following resolution:(7)

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6168)

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6. H. Res. 717, 92 Cong. Rec. 10037, 79th Cong. 2d Sess.

7. H. Res. 357, 119 Cong. Rec. 12501, 93d Cong. 1st Sess.

to amend and extend the Economic Stabilization Act of 1970. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. Immediately after the reading of the first section of H.R. 6168 under the five-minute rule, it shall be in order to consider without the intervention of any point of order the text of H.R. 6879 as an amendment in the nature of a substitute for the bill. If said amendment in the nature of a substitute is not agreed to in Committee of the Whole, it shall then be in order to consider the amendments recommended by the Committee on Banking and Currency now printed in the bill notwithstanding the provisions of clause 7, rule XVI. At the conclusion of the consideration of H.R. 6168 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 6168, the Committee on Banking and Currency shall be discharged from the further consideration of the bill S. 398, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 6168 as passed by the House.

The House rejected the previous question on the resolution and adopted an amendment offered by Mr. David T. Martin, of Nebraska:(8)

Mr. Martin of Nebraska: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Martin of Nebraska: On page 2, line 1, strike "H.R. 6879," and insert in lieu thereof, "H.R. 2099."
>
> On page 2, lines 2 through 7, strike the words: "If said amendment in the nature of a substitute is not agreed to in Committee of the Whole, it shall then be in order to consider the amendments recommended by the Committee on Banking and Currency now printed in the bill notwithstanding the provisions of clause 7, rule XVI."

Mr. Martin of Nebraska: Mr. Speaker, I would like to explain this amendment to the Members. The amendment makes in order the consideration of the committee bill, H.R. 6168. Then it makes in order the offering of H.R. 2099 as a substitute. This strikes out the Stephens bill and substitutes H.R. 2099, which is a bill which was jointly introduced by the chairman of the Banking and Currency Committee and the ranking minority member, and provides for a simple 12 months' extension of the Economic Stabilization Act.

Then in addition it strikes from the original resolution (H. Res. 357) the waiving of points of order in regard to germaneness. In other words, those are

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8. *Id.* at p. 12509.

stricken from the resolution. That is all this amendment does.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. Bolling).

Mr. Bolling: Mr. Speaker, I thank the gentleman from Nebraska for yielding, but I see no purpose in debating the matter further. I thank the gentleman again.

Mr. Martin of Nebraska: Mr. Speaker, I urge adoption of the amendment, and I move the previous question on the amendment and on the resolution.

The previous question was ordered.

The Speaker:(9) The question is on the amendment offered by the gentleman from Nebraska (Mr. Martin).

The amendment was agreed to.

The Speaker: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

§ 21.9 The House voted down the previous question on a resolution providing for the consideration of a bill and amended the resolution by striking out a provision which would have made in order sections or paragraphs of another bill as amendments.

On June 7, 1944, Mr. Adolph J. Sabath, of Illinois, called up by direction of the Committee on Rules a special order providing for the consideration of a bill, and making in order without the intervention of any point of order amendments containing the text of another bill:(10)

Resolved, That upon the adoption of this resolution is shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 4941) to extend the period of operation of the Emergency Price Control Act of 1942 and the Stabilization Act of October 2, 1942, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 9 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order any amendment which may be offered to the bill embodying any of the sections or paragraphs contained in the bill H.R. 4647. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

After debate on the resolution, during which Speaker Sam

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(9) Carl Albert (Okla.).

(10) H. Res. 582, 90 Cong. Rec. 5465, 78th Cong. 2d Sess.

Rayburn, of Texas, opposed the provisions in the rule making certain amendments in order, the previous question was rejected on the resolution and the House adopted the following amendment to the resolution:

Mr. [Brent] Spence [of Kentucky]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Spence: Page 2, line 1, after the word "rule", strike out the entire sentence commencing with the words "It shall", ending with "H.R. 4647", in line 4.

§ 21.10 Where a committee reported out a bill similar to one which was eligible to be called up on the Discharge Calendar, the House adopted a special order providing for the consideration of the reported bill and making in order, after passage, a motion to substitute the title, provisions, and number of the other House bill, such motion not to be debatable.

On June 11, 1956,(11) the House adopted a special order reported from the Committee on Rules providing for the consideration of a bill and making in order a motion after passage thereof:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1840) to strengthen the Robinson-Patman Act and amend the antitrust law prohibiting price discrimination. That after general debate, which shall be confined to the bill and continue not to exceed 3 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill H.R. 1840, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit. After the passage of the bill H.R. 1840, it shall be in order to move to strike out the number H.R. 1840 and title and provisions thereof and to substitute in lieu thereof the number H.R. 11 and the title and provisions thereof: *Provided, however,* That such motion shall not be debatable.

Parliamentarian's Note: A discharge petition, discharging the Committee on Rules from the further consideration of House Resolution 414 (providing a rule for the consideration of H.R. 11) was signed by the requisite number of Members on May 21 and was therefore eligible, pursuant to Rule XXVII clause 4, to be called up

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11. 102 Cong. Rec. 10025, 84th Cong. 2d Sess., H. Res. 521.

from the Calendar of Motions to Discharge Committees on June 11. The Committee on the Judiciary had however reported out H.R. 1840 (identical to H.R. 11 except for the title thereof) on May 24. The resolution providing for the consideration of H.R. 1840 and making in order the substitution of H.R. 11 in the House was reported by the Committee on Rules.

Although the House passed H.R. 1840 and amended the title thereof to conform with the title of H.R. 11, the number of H.R. 11 was not substituted for that of the reported bill.

Designated Amendments Made in Order

§ 21.11 Where a bill was being considered in Committee of the Whole under a special procedure which made in order the text of another bill as an amendment in the nature of a substitute (but not providing for reading said substitute as an original bill for amendment) and which made in order as an amendment to said amendment in the nature of a substitute another designated bill, the Chair indicated that recognition to offer the amendment made in order to the substitute would be governed by precedents relating to recognition, where the special order did not attach a priority to that amendment.

On Dec. 12, 1973,(12) the House adopted the following special order for the consideration of a bill, making in order a designated bill as an amendment in the nature of a substitute, and making in order another designated bill as an amendment to the amendment in the nature of a substitute:

H. RES. 744

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order immediately after the enacting clause is read

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12. 119 CONG. REC. 41105, 41106, 93d Cong. 1st Sess.

to consider without the intervention of any point of order the text of the bill H.R. 11882, if offered as an amendment in the nature of a substitute for the bill H.R. 11450. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 11891 if offered as an amendment to said amendment in the nature of a substitute. At the conclusion of the consideration of H.R. 11450 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

At the conclusion of general debate on the bill in Committee of the Whole, the amendment in the nature of a substitute (the text of H.R. 11882) was offered by Mr. Harley O. Staggers, of West Virginia, and Mr. Staggers asked unanimous consent that the amendment be considerd as read, printed in the Record, and open to amendment at any point. Chairman Richard Bolling, of Missouri, then answered a series of parliamentary inquiries on the procedure for offering amendments under the provisions of the special order governing consideration of the bill. One of the inquiries related to recognition for offering the amendment made in order to the amendment in the nature of a substitute:

Mr. [Clarence J.] Brown of Ohio: Mr. Chairman, reserving the right to object, I should like to inquire, if the request of the gentleman is accepted and there is no objection to it, when it would be timely for the amendment made in order by the rule to the text of the substitute to be offered, that amendment being H.R. 11891, which would be the amendment, as the rule prescribes, to H.R. 11882?

The Chairman: The Chair would repeat what the Chair has already said. The Chair would recognize Members to offer amendments as they are reached in the customary procedure of the House.

There is no particular priority, there is no special priority given to that amendment but the gentleman is a member of the committee and he ranks on the committee and the Chair would seek to reach him in an orderly fashion.

Mr. Brown of Ohio: Mr. Chairman, I withdraw my reservation of objection.(13)

§ 21.12 Where a special rule makes in order the text of another bill as an amendment, that text may be offered as an amendment to the bill or as an amendment in the nature of a substitute therefor.

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13. *Id.* at pp. 41153–55. For a discussion of the other parliamentary inquiries propounded on this occasion, see § 25.17, infra.

On July 17, 1968, Mr. Richard Bolling, of Missouri, called up by direction of the Committee on Rules a special order providing for the consideration of a bill and making in order a specified amendment:(14)

Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1249 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1249

Resolved, That upon the adoption of this resolution, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 17735) to amend title 18, United States Code, to provide for better control of the interstate traffic in firearms. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider, without the intervention of any point of order, the text of the bill H.R. 6137 as an amendment to the bill. At the conclusion of the consideration of the bill H.R. 17735 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. Bolling, in debate on the special order, discussed how the specified amendment could be offered:(15)

Mr. Speaker, I have just gotten permission to include in the Record the text of the so-called Casey bill, H.R. 6137, which was made in order by the rule as an amendment to H.R. 17735, the bill this rule will make in order for consideration under a 3-hour open rule.

I do so because the procedure followed by the Committee on Rules in granting this rule is a relatively unusual procedure. I think it important that the Members understand what may be offered as an amendment. It is also important that they understand that this amendment, this so-called Casey bill, may be offered either as a substitute for H.R. 17735, or as an amendment to it.

§ 21.13 Where a resolution providing for the consideration of a bill makes in order (notwithstanding the rule of germaneness) the text of another specific bill as an amendment, points of order are considered as waived only against the complete text of the proposed bill and not against portions thereof; and if parts of the text are offered as independent amendments they

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14. 114 Cong. Rec. 21765, 90th Cong. 2d Sess.

15. *Id.* at p. 21766.

must meet the test of germaneness under Rule XVI clause 7.

On Dec. 10, 1969, the House had under consideration a special order called up by direction of the Committee on Rules by Mr. Ray J. Madden, of Indiana, the resolution made in order as an amendment to the bill the text of another bill, and waived points of order against the consideration of such amendment:(16)

H. Res. 714

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee of the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider, without the intervention of any point of order, the text of the bill H.R. 12695 as an amendment to the bill. At the conclusion of the consideration of H.R. 4249 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Speaker pro tempore Carl Albert, of Oklahoma, answered parliamentary inquiries on whether portions of the text of the bill thus made in order could be offered as amendments or as part of the instructions in a motion to recommit:(17)

Mr. [Clark] MacGregor [of Minnesota]: Mr. Speaker, I have a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. MacGregor: Mr. Speaker, under the resolution (H. Res. 714), if adopted, should the bill, H.R. 12695, be considered and rejected, would it then be in order, following rejection of H.R. 12695, should that occur, to offer a portion or portions of H.R. 12695 as amendments to H.R. 4249?

The Speaker Pro Tempore: The Chair will state that would be in order subject to the rule of germaneness, if germane to the bill H.R. 4249.

Mr. MacGregor: Mr. Speaker, a further parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. MacGregor: Mr. Speaker, should a portion of H.R. 12695 be offered under the conditions set forth in my previous inquiry and should it not be germane, a motion to that effect, to rule it out of order, would be then in order and be sustained, I gather?

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(16) 115 Cong. Rec. 38123, 91st Cong. 1st Sess.

(17) *Id.* at p. 38130.

The Speaker Pro Tempore: That, of course, would be a matter for the Chairman of the Committee of the Whole to consider when it is before him.

Mr. MacGregor: Mr. Speaker, I have one additional parliamentary inquiry. Under House Resolution 714, if adopted, would it be in order to include in the motion to recommit a portion or portions of H.R. 12695 which might otherwise be subject to a point of order on the point of germaneness?

The Speaker Pro Tempore: The Chair would not want to pass upon that hypothetically. At the time the occasion arises the Chair would pass upon it.

§ 21.14 Where the Committee on Rules had reported a resolution making in order consideration of a committee amendment in the nature of a substitute as an original bill for amendment, and making in order the text of another bill as a substitute therefor, the Speaker pro tempore indicated, in response to a series of parliamentary inquiries, that (1) amendments would be in order to such substitute at any point and would not be in the third degree; (2) if the substitute text were offered to section 1 of the committee amendment, only that section of the committee amendment would be open to perfecting amendment while the substitute was pending; and (3) if the substitute were defeated in Committee of the Whole, the committee amendment would be read by sections for amendment.

On June 16, 1970, there was pending before the House House Resolution 1077 providing for the consideration of H.R. 17070, the Postal Reform Act of 1970:

H. Res. 1077

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 17070) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 17966 as a substitute for the said committee amendment. At the conclusion of the consideration of H.R. 17070 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.[18]

Speaker pro tempore Carl Albert, of Oklahoma, answered parliamentary inquiries on offering amendments under the provisions of the special order:

Mr. [H. Allen] Smith of California: Mr. Speaker, may I present a parliamentary inquiry at this time?

The Speaker Pro Tempore: The gentleman will state his parliamentary inquiry.

Mr. Smith of California: In connection with H.R. 17070, which the Rules Committee has made in order as a committee substitute for the original committee bill, which was stricken out, and against which bill points of order are to be waived, and in addition in connection with H.R. 17966, which has been made in order as a substitute, waiving points of order, my understanding of the parliamentary situation is, if we do not get into the third degree where we are stopped, that when H.R. 17966 is offered as a substitute it will be open to amendment as we go through the bill.

The Speaker Pro Tempore: It will be open to amendment at any point.

Mr. Smith of California: It is my understanding if we have an amendment pending on that bill, which is one amendment, we can also have an amendment pending on the original bill if it applies to the same section or same part of the bill. In other words, we are not precluded from amending H.R. 17070 until we completely take care of H.R. 17966 and the Committee rises and you vote on that. We can amend in the Committee of the Whole H.R. 17070.

The Speaker Pro Tempore: If the Chair correctly understands the gentleman, the answer to it is that the Udall substitute can be offered as an amendment to section 1. Other amendments can be offered to section 1 of the committee amendment, but no other amendments can be offered beyond section 1 to the committee amendment.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. Smith of California: I yield for a parliamentary inquiry.

Mr. Gerald R. Ford: Is it not accurate to say, however, that if the Udall-Derwinski substitute, H.R. 17966, is defeated in the Committee of the Whole, then any other part of

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[18] 116 Cong. Rec. 19837, 91st Cong. 2d Sess.

H.R. 17070 is open for amendment at any point?

THE SPEAKER PRO TEMPORE: In that event, the Committee of the Whole would go back and read the committee amendment as an original bill, in which case each section would be open for amendment as it was read.[19]

Certain Amendments Prohibited

§ 21.15 The House adopted a resolution providing for consideration of a bill amending the rules of the House under a procedure prohibiting amendments which would change the jurisdiction of any standing committee.

On July 13, 1970, Mr. B. F. Sisk, of California, called up by direction of the Committee on Rules a special order, providing for the consideration of a bill reported by the Committee on Rules (Legislative Reorganization Act of 1970). The resolution prohibited the offering of certain types of amendments and was adopted by the House:[20]

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the bill shall be read for amendment under the five-minute rule. No amendment to the bill shall be in order which would have the effect of changing the jurisdiction of any committee of the House listed in rule XI. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 21.16 To a bill amending the rules of the House being considered under a special order prohibiting amendments to the bill "which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI," an amendment proposing a new Rule XLV to require that a majority of at least one subcommittee of the Committee on Government Operations consist of minority members of the House was ruled out of order as an attempt to change the "jurisdiction and

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[19] *Id.* at p. 19838.

[20] H. Res. 1093, 116 CONG. REC. 23901, 91st Cong. 2d Sess.

makeup of the Committee on Government Operations."

On July 29, 1970, the Committee of the Whole was considering H.R. 17654, the Legislative Reorganization Act of 1970, pursuant to a special order (H. Res. 1093) prohibiting certain kinds of amendments. Chairman William H. Natcher, of Kentucky, sustained a point of order against an amendment as in violation of the special order:[1]

MR. [JAMES C.] CLEVELAND [of New Hampshire]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Cleveland: on page 39, immediately below line 4, insert the following:
>
> "MINORITY PARTY CONTROL OF ONE SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS
>
> "Sec. —. The Rules of the House of Representatives are amended by adding at the end thereof the following new rule:
>
> " 'RULE XLV
>
> " 'MINORITY PARTY CONTROL OF ONE SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS
>
> " 'A majority of the members of no fewer than one subcommittee of the Committee on Government Operations shall consist of members of the largest minority party in the House of Representatives.' "
>
> And make the necessary technical changes in the table of contents, section numbers and references in the bill.

MR. [B. F.] SISK [of California]: Mr. Chairman, I make a point of order against the amendment. . . .

THE CHAIRMAN: The Chair is ready to rule.

As the gentleman from New Hampshire knows, the House resolution under which we are now operating, House Resolution 1093, specifically provides, in part:

> No amendment to the bill shall be in order which would have the effect of changing the jurisdiction of any committee of the House listed in rule XI.

The amendment offered by the gentleman from New Hampshire would change the jurisdiction and the makeup of the Committee on Government Operations to the extent that it would force the Committee on Government Operations to set up a subcommittee for the purpose to which the amendment goes.

Therefore, the Chair sustains the point of order that was raised by the gentleman from California (Mr. Sisk), that the amendment violates that part of the resolution under which we are operating and, therefore, for the reasons the Chair has given, the point of order is sustained.

Parliamentarian's Note: The sponsor of the amendment had originally offered an amendment proposing a new rule of the House to establish a Minority Committee on Investigations but had withdrawn that amendment when advised that it would have the effect of changing the jurisdiction of the Committee on Government Operations and would therefore be in violation of the special order under which the bill was being considered.(2)

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[1] 116 CONG. REC. 26421, 26422, 91st Cong. 2d Sess.

§ 21.17 To a bill amending the rules of the House, being considered pursuant to a resolution prohibiting amendments to the bill "which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI," an amendment to Rule XI clause 23 [Rule XI clause 4(b), in the 1979 House Rules and Manual] proscribing the power of the Committee on Rules to report special orders which would limit the reading of a measure for amendment or the offering of amendments thereto, was ruled out of order as an attempt to change the jurisdiction of the Committee on Rules.

On July 29, 1970, the Committee of the Whole was considering H.R. 17654, the Legislative Reorganization Act of 1970. The special order under which the bill was being considered (H. Res. 1093) prohibited amendments "which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI." Chairman William H. Natcher, of Kentucky, sustained a point of order against an amendment:(3)

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jacobs: On page 39, after line 4, add the following new section:

"Sec. 123(a) Clause 23 of Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: 'In addition, the Committee on Rules shall not report any rule or order for the consideration of any legislative measure which limits, restricts, or eliminates the actual reading of that measure for amendment or the offering of any amendment to that measure.'". . .

MR. [B. F.] SISK [of California]: Mr. Chairman, I reserve a point of order on the amendment. However, I would be perfectly happy to have the gentleman from Indiana explain what he proposes to do, but I would like to reserve a point of order against the amendment.

MR. [H. ALLEN] SMITH of California: Mr. Chairman, I was going to make a point of order against the gentleman's amendment because it clearly limits and violates the rule under which we are proceeding. But if the gentleman has a desire to speak on it, I shall reserve a point of order until after the gentleman speaks on it.

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(2) *Id.* at p. 26421.

(3) 116 CONG. REC. 26414, 91st Cong. 2d Sess. For language sought to be amended, see *House Rules and Manual*, § 729 (1973).

Mr. Jacobs: I have expressed no such desire.

Mr. Smith of California: Mr. Chairman, I raise the point of order that this very definitely limits the jurisdiction of the Rules Committee and would prohibit us from issuing a closed rule and other types of rules. The rule under which this measure was considered strictly prohibits the changing of any jurisdiction of any committee.

The Chairman: Does the gentleman from Indiana desire to be heard on the point of order?

Mr. Jacobs: Mr. Chairman, as I understand the term "jurisdiction," it means the territory or subject matter over which legal power is exercisable, not the rules by which such power proceeds.

The Chairman: The Chair is prepared to rule.

The Chair would like to point out to the gentleman from Indiana that under House Resolution 1093 we have the following language, beginning in line 11:

> No amendments to the bill shall be in order which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI.

Therefore, the Chair sustains the point of order.

Mr. Jacobs: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Jacobs: Mr. Chairman, my parliamentary inquiry is for some enlightenment about the word "jurisdiction" itself, the definition of the word "jurisdiction"? Does it refer to subject matter and territory, or relate to the manner in which the Committee on Rules can make a report within its jurisdiction?

The Chairman: The Chair would like to point out to the gentleman from Indiana that under the amendment offered by the gentleman from Indiana there is the following language:

> The Committee on Rules shall not report any rule or order for the consideration of any legislative measure which limits, restricts, or eliminates the actual reading of that measure for amendment or the offering of any amendment to that measure.

Therefore the amendment offered by the gentleman from Indiana restricts the jurisdictional powers of the Committee on Rules. For that reason the point of order must be sustained.

§ 22. "Closed" Rules, Prohibiting Amendments and Allowing Only Certain Amendments

Certain resolutions reported from the Committee on Rules are commonly termed "closed rules" or "modified closed" rules because they prohibit amendments, or allow only certain specified amendments. Such a special order typically provides that, following general debate in Committee of the Whole, the bill or resolution shall be considered as having been read for amendment, and that no amendments shall be in order except amendments offered by direction of the committee which reported the bill, such amendments not to be subject to amendment. Or the resolution may provide that no amendments except committee amendments or other designated amendments shall be in order, such amendments not to be subject to amendment.(4)

A special order may also provide a closed rule for the consideration of a measure in the House, by providing that at the expiration of a certain period of debate, the previous question shall be considered as ordered.(5)

Where a resolution allows only certain amendments, with such amendments not subject to amendment, pro forma amendments to strike out the last word are not in order.(6)

Under the provisions of a closed rule which prohibits the offering of amendments to a bill in Committee of the Whole but allows a motion in the House to recommit, a motion to recommit with instructions may be offered to incorporate an amendment which would not have been in order in Committee of the Whole because of the terms of the special order.(7)

Cross References

As to procedure in Committee of the Whole generally, see Ch. 19, supra.

As to amendments generally, see Ch. 27, infra.

As to amendments under the hour rule in the House, see Ch. 29, infra.

As to amendments prohibited to propositions brought up under suspension of the rules, see § 14, supra.

As to the motion to recommit under a "closed" rule, see § 26, infra.

As to the provision that the previous question be considered as ordered by special rule, see § 26, infra.

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4. The rules of the Democratic Caucus have on occasion required notice of intent to seek a "closed" rule from the Committee on Rules. See § 22.22, infra.

   The motion to suspend the rules and pass a bill, under Rule XXVII clauses 1–3, *House Rules and Manual* §§ 902–907 (1979), may be used to pass a bill without amendment on the floor. See § 14, supra.

5. See § 22.16, infra.

   The Member who calls up a proposition in the House has control of one hour of debate and may move the previous question, which, if adopted, precludes amendment, even without a special order. See Ch. 29, infra, for discussion of consideration and debate in the House.

6. See § 22.20, infra. A "closed" rule may, however, specifically allow pro forma amendments. See § 22.19, infra.

7. Compare §§ 26.11, 26.12, infra, where the special order prevented such a motion to recommit by prohibiting amendments to a title of a bill during its consideration in both the House and Committee of the Whole.

Committee Amendments Only Permitted

§ 22.1 Form of resolution permitting only committee amendments to a bill, such amendments not to be subject to amendment.

The following resolution was under consideration on Dec. 19, 1947:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (S.J. Res. 167) to aid in the stabilization of commodity prices, to aid in further stabilizing the economy of the United States, and for other purposes, and all points of order against the said joint resolution are hereby waived. That after general debate, which shall be confined to the joint resolution and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the joint resolution shall be considered as having been read for amendment. No amendment shall be in order to said joint resolution except amendments offered by direction of the Committee on Banking and Currency, and said amendments shall be in order, any rule of the House to the contrary notwithstanding. Amendments offered by direction of the Committee on Banking and Currency may be offered to any section of the joint resolution at the conclusion of the general debate, but such amendments shall not be subject to amendment. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.(8)

As a further example, the following resolution was considered on Feb. 18, 1959:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4245) relating to the taxation of the income of life insurance companies, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill, and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means, but said amendments shall not be subject to amendment. At the conclusion of such consideration the Committee shall rise and report the

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8. H. Res. 412, 93 Cong. Rec. 11720, 11721, 80th Cong. 1st Sess.

bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit.(9)

§ 22.2 Form of resolution providing for the consideration of a bill and providing that only committee amendments, or amendments proposing to strike portions of the bill, be in order.

The following resolution was under consideration on July 23, 1953:(10)

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5894) to amend the Trade Agreements Extension Act of 1951 and certain other provisions of law to provide adequate protection for American workers, miners, farmers, and producers, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill, and shall continue not to exceed 3 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendments shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means or amendments proposing to strike out a section, paragraph, or subparagraph of the bill. Amendments that may be offered to said bill under the terms of this resolution shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit.

§ 22.3 Form of resolution providing a "closed" rule for the consideration of a resolution dealing with a declaration of foreign policy, allowing only committee amendments.

The following resolution was under consideration on July 17, 1969:(11)

> H. RES. 722
>
> *Resolved,* That upon the adoption of this resolution it shall be in order to

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9. H. Res. 171, 105 CONG. REC. 2565, 86th Cong. 1st Sess.

10. H. Res. 347, 99 CONG. REC. 9635, 9636, 83d Cong. 1st Sess.

11. 115 CONG. REC. 36080, 36081, 91st Cong. 1st Sess. In debate on the resolution, Mr. James C. Wright, Jr. (Tex.) referred to "clearly established precedents in an unbroken chain for at least the past 15 years" which "brought foreign policy resolutions to the House on a closed rule." *Id.* at p. 36081.

move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 613) toward peace with justice in Vietnam. After general debate, which shall be confined to the resolution and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the resolution shall be considered as having been read for amendment. No amendment shall be in order to said resolution except amendments offered by direction of the Committee on Foreign Affairs, and such amendments shall not be subject to amendment. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 22.4 Form of resolution permitting no amendments except an amendment printed in a Record of a previous day and offered by a member of the committee.

The following resolution was under consideration on July 7, 1953:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H.R. 5173, a bill to provide that the excess of collections from the Federal unemployment tax over unemployment compensation administrative expenses shall be used to establish and maintain a $200 million reserve in the Federal unemployment account which will be available for advances to the States, to provide that the remainder of such excess shall be returned to the States, and for other purposes, and all points of order against said bill and any provisions contained in said bill are hereby waived. After general debate, which shall be confined to the bill, and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill, except that it shall be in order for any member of the Committee on Ways and Means to offer either or both of the proposed amendments printed in the *Congressional Record* of July 6, 1953, page 8037, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to

final passage without intervening motion, except one motion to recommit.[12]

As a further example, the following resolution was considered on Apr. 20, 1955:

> ***Resolved,*** **That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H.R. 4644, a bill to increase the rates of basic salary of postmasters, officers, supervisors, and employees in the postal field service, to eliminate certain salary inequities, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill, and shall continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill, except that it shall be in order for any member of the Committee on Post Office and Civil Service to offer any of the amendments proposed by the gentleman from California, Mr. Moss, and printed in the *Congressional Record* of Tuesday, April 19, 1955, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.**[13]

Parliamentarian's Note: Where a special rule makes in order only a specified amendment, the amendment when offered must take the exact form as specified, except by unanimous consent, to be in order.

If the rule designates the Member who may offer the amendment, only that Member may offer it.

§ 22.5 Form of resolution permitting by way of amendments only a motion by a member of the committee to substitute the text of another bill.

The following resolution was under consideration on July 25, 1956:[14]

> ***Resolved,*** **That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11742) to extend and amend laws relating to the provision and improvement of housing and the conservation and development**

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[12] H. Res. 316, 99 Cong. Rec. 8152, 83d Cong. 1st Sess.

[13] H. Res. 211, 101 Cong. Rec. 4828, 84th Cong. 1st Sess.

[14] H. Res. 618, 102 Cong. Rec. 14456, 84th Cong. 2d Sess.

of urban communities, and for other purposes. After general debate, which shall be confined to the bill, and shall continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be considered as having been read for amendment. No amendments shall be in order to the said bill except that it shall be in order for any member of the Committee on Banking and Currency to move to strike out all after the enacting clause of the bill H.R. 11742 and insert as a substitute the text of the bill H.R. 12328, and such substitute shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill H.R. 11742, the Committee shall rise and report the bill to the House with such amendment as may have been adopted and the previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion, except one motion to recommit.

§ 22.6 Form of resolution permitting only committee amendments to a certain portion of the bill.

The following resolution was under consideration on June 9, 1955:(15)

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6227) to provide for the control and regulation of bank holding companies, and for other purposes. After general debate, which shall be confined to the bill, and shall continue not to exceed 4 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. No amendments shall be in order to the portions of the bill beginning on line 7, page 19, and ending on line 13, page 30, amending the Internal Revenue Code, except amendments offered by direction of the Committee on Banking and Currency and such amendments shall be in order notwithstanding any rule of the House to the contrary, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit.

§ 22.7 The House defeated the previous question on a resolution providing for a "closed" rule and then, after considering an amendment to permit reading

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15. H. Res. 265, 101 Cong. Rec. 7956, 84th Cong. 1st Sess.

the bill by titles and motions to strike matter in the bill, ordered the previous question on the amendment and resolution, rejected the amendment, and finally agreed to the resolution as reported from the Committee on Rules.

On Nov. 18, 1970, there was called up by direction of the Committee on Rules a resolution making in order the consideration of a bill (the Trade Act of 1970) and providing a "closed" rule, permitting only committee amendments, such amendments not to be subject to amendment:(16)

MR. [JOHN A.] YOUNG [of Texas]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1225 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1225

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 18970) to amend the tariff and trade laws of the United States, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed eight hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendments shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding. Amendments offered by direction of the Committee on Ways and Means may be offered to any section of the bill at the conclusion of the general debate, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

After debate on the resolution, the previous question was moved and rejected; Mr. Sam M. Gibbons, of Florida, offered an amendment to the resolution:(17)

Amendment offered by Mr. Gibbons: Strike out all of that material beginning on page 1, line 10, after the comma down to the period on line 7, page 2, and insert the following in lieu thereof: "the bill shall be read for amendment under the five-minute rule by titles instead of by sections. No amendments shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means or amendments proposing to strike out

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16. 116 CONG. REC. 37823, 91st Cong. 2d Sess.

17. *Id.* at pp. 37834, 37835.

any matter in the bill and such amendments of a conforming or clerical nature as are necessary to perfect the text of the bill following the adoption of any such amendment to strike. Amendments that may be offered to said bill under the terms of this resolution shall be in order, any rule of the House to the contrary notwithstanding.". . .

MR. GIBBONS: . . . There is nothing very magical or very different about my amendment to the rule than the rule reported by the Rules Committee. All my amendment seeks to do is to give each Member of this House, as the bill is read, as each title is completed, the opportunity to come in and present an amendment to strike—not an amendment to add any new material and not any amendment to add any substance to the bill, but only to strike from that bill.

If things are stricken, obviously it is going to be necessary to adopt clerical or perfecting amendments relating to punctuation and numbering and so on, and that is provided for in this rule.

This rule also provides there shall be the same amount of general debate as provided in the rule reported by the Rules Committee.

There is really no substantial difference in the rule I am proposing or the amendment to the rule I am proposing other than that this rule, if adopted, would allow Members to come in and to strike from this very important bill and this very controversial bill items that the Members do not agree with.

The previous question was ordered on the amendment and on the resolution; the amendment was rejected and the original resolution was agreed to.

Committee Amendments or Designated Amendments Only Permitted

§ 22.8 Form of resolution permitting only committee amendments and specified amendments, such amendments not to be subject to amendment.

The following resolution was under consideration on June 29, 1951:

> *Resolved,* That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 278) to continue for a temporary period the Defense Production Act of 1950; the Housing and Rent Act of 1947, as amended; and for other purposes, and all points of order against the joint resolution are hereby waived. That after general debate, which shall be confined to the joint resolution and continued not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the joint resolution shall be considered as having been read for amendment. No amendment shall be in order to said joint resolution except (1) amendments offered by

direction of the Committee on Banking and Currency, and (2) the following amendment: "Notwithstanding any other provision of this resolution or any other provision of law, the authority conferred under the Defense Production Act of 1950, as amended, shall not be exercised during the period, June 30, 1951, to July 31, 1951, inclusive, to place into effect, or permit to become effective, a price ceiling for any material or service lower than the ceiling in effect for such material or service on the date of the enactment of this resolution or to put into effect a ceiling for any material or service for which a ceiling is not in effect on the date of the enactment of this resolution", and said amendments shall be in order, any rule of the House to the contrary notwithstanding. Amendments offered by direction of the Committee on Banking and Currency or the amendment provided herein may be offered to any section of the joint resolution at the conclusion of the general debate, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the joint resolution for amendment, the committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.(18)

As a further example, the following resolution was considered on July 8, 1954:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H.R. 9709, a bill to extend and improve the unemployment compensation program, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill, and shall continue not to exceed 3 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means and except that it shall be in order for any member of the Committee on Ways and Means to offer either or both of the proposed amendments printed in the *Congressional Record* of July 7, 1954, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening

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18. H. Res. 294, 97 Cong. Rec. 7482, 82d Cong. 1st Sess.

motion, except one motion to recommit.[19]

Similarly, a resolution was considered on June 18, 1962, as follows:

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 12154) to amend and extend the provisions of the Sugar Act of 1948, as amended, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill, and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be considered as having been read for amendment. No amendments shall be in order to said bill except amendments offered by the direction of the Committee on Agriculture; an amendment to page 2, line 17, proposing to insert the following: "Provided, however, that the total amount of sugar needed to meet requirements of consumers in the continental United States shall not be less than the amount required after allowances for normal carryover, to give consumers of the continental United States a per capital consumption of 100 pounds."; and an amendment to page 25, lines 3 to 23, inclusive, to strike out Sec. 18; and said amendments shall be in order, any rule of the House to the contrary notwithstanding. Amendments offered by direction of the Committee on Agriculture may be offered to any section of the bill at the conclusion of the general debate, but said amendments shall not be subject to amendment; nor shall the two additional amendments permitted under this rule be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.[20]

§ 22.9 Form of resolution providing "modified closed rule," permitting only committee amendments or designated amendments (1) containing text previously inserted in the Congressional Record or (2) striking out specified portions of the bill, with such amendments not subject to amendment.

The following resolution was under consideration on Dec. 10, 1973:

> H. Res. 657
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> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10710) to pro-

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[19] H. Res. 614, 100 Cong. Rec. 10062, 83d Cong. 2d Sess.

[20] H. Res. 691, 108 Cong. Rec. 10796, 87th Cong. 2d Sess.

mote the development of an open nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed seven hours, six hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and one hour to be controlled by Representative John H. Dent, of Pennsylvania, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means, an amendment offered to section 402 of said bill containing the text printed on page 34311 of the *Congressional Record* of October 16, 1973, an amendment proposing to strike out title IV of said bill and an amendment proposing to strike out title V of said bill, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.(1)

§ 22.10 In response to a parliamentary inquiry, the Speaker pro tempore indicated that if the House adopted an amendment to a pending "closed rule" permitting motions to "strike out any matter in the bill," motions to strike out any portion of the bill would be in order.

On Nov. 18, 1970, there was pending before the House House Resolution 1225, reported from the Committee on Rules and providing for consideration of a tariff bill. The resolution as reported allowed only committee amendments to the bill, such amendments not to be subject to amendment. The previous question was rejected on the resolution, and Mr. Sam M. Gibbons, of Florida, was recognized to offer an amendment to the resolution:

> Mr. Speaker, I offer an amendment.
> The Clerk read as follows:
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> Amendment offered by Mr. Gibbons: Strike out all of that material beginning on page 1, line 10, after the comma down to the period on line 7, page 2, and insert the following in lieu thereof: "the bill shall be read for amendment under the five-minute rule by titles instead of by sections. No amendments shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means or amendments proposing to strike out any matter in the bill and such amendments of a conforming or clerical nature as are necessary to perfect the text of the bill following the adoption of any such amendment

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1. 119 Cong. Rec. 40489, 93d Cong. 1st Sess.

to strike. Amendments that may be offered to said bill under the terms of this resolution shall be in order, any rule of the House to the contrary notwithstanding."[2]

Speaker pro tempore John J. Rooney, of New York, answered a parliamentary inquiry on the effect of the amendment should it be adopted:

Mr. Gibbons: I will be glad to yield for the purpose of a parliamentary inquiry.

Mr. [Charles A.] Vanik [of Ohio]: I would like to make this parliamentary inquiry.

Mr. Speaker, under the rule as has been submitted by the gentleman from Florida, am I correct in understanding that it will be in order to strike out either any language or any section or any provision which presently exists in the trade bill as reported by the Committee on Ways and Means?

The Speaker Pro Tempore: Under the terms of the amendment, any motion to strike out any language, word or otherwise in any part of the bill would be in order.

Mr. Vanik: Including an entire section?

The Speaker Pro Tempore: Including an entire section, or title.[3]

The House then rejected the amendment and agreed to the resolution as originally called up.[4]

§ 22.11 When a bill was being considered under a resolution providing that "no amendment shall be in order to said bill except proposals to strike out any of its provisions or to increase or decrease the amounts authorized therein," amendments proposing to change the time when provisions of the bill were to be effective were held not to be in order.

On Feb. 16, 1955, Chairman Howard W. Smith, of Virginia, ruled as follows on an amendment offered in Committee of the Whole to a bill being considered under a special rule (H. Res. 141) allowing only certain kinds of amendments to be offered:[5]

The Clerk read as follows:

Sec. 5. (a) The provisions of sections 1, 2, and 3 shall take effect on the 1st day of January 1955.

(b) The provisions of section 4 shall take effect as of the commencement of the 84th Congress.

Mr. [Richard H.] Poff [of Virginia]: Mr Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. Poff: On page 5, line 13, strike out "84th" and insert in lieu thereof "85th."

Mr. [Emanuel] Celler [of New York]: Mr. Chairman, a point of order. Under the rule, House Resolution 141, the amendment offered by the gentleman from Virginia, is not germane, and therefore not in order.

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[2] 116 Cong. Rec. 37835, 91st Cong. 2d Sess.

[3] *Id.* at p. 37838.

[4] *Id.* at p. 37841.

[5] 101 Cong. Rec. 1585, 84th Cong. 1st Sess.

The Chairman: As stated by the Chair before the reading of the bill, under the rule by which the bill is being considered, no amendments are in order except those raising or lowering the amount, or striking out some portion of the bill.

Therefore, such amendment changing the effective date of the bill would not be in order, and the Chair sustains the point of order.

The Chairman made a similar ruling further on during the consideration of the same bill:(6)

Mr. [Usher L.] Burdick [of North Dakota]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Burdick: Page 5, strike out section 5 and insert a new section 5 to read as follows:
>
> "Sec. 5. This act shall take effect on January 1, 1957."

Mr. Celler: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Celler: Mr. Chairman, I make the point of order that under the terms of House Resolution 141, this amendment is out of order.

The Chairman: The Chair will state that this amendment falls within the same class as the one previously ruled on with respect to this section.

The Chair sustains the point of order.

Partially Closed Rule on Bill Managed by Two Committees

§ 22.12 Form of resolution, on bill managed by two committees, permitting only amendments by one of those committees to a title of the bill.

The following resolution was under consideration on Apr. 26, 1956:(7)

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10660) to amend and supplement the Federal-Aid Road Act approved July 11, 1916, to authorize appropriations for continuing the construction of highways; to amend the Internal Revenue Code of 1954 to provide additional revenue from the taxes on motor fuel, tires, and trucks and buses; and for other purposes. After general debate, which shall be confined to the bill, and shall continue not to exceed 5 hours, 3 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, and 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the 5-minute rule. No amend-

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6. *Id.* at p. 1586.

7. H. Res. 485, 102 Cong. Rec. 7110, 84th Cong. 2d Sess.

ments shall be in order to title II of the bill except amendments offered by direction of the Committee on Ways and Means which shall be in order notwithstanding any rule of the House to the contrary, but shall not be subject to amendment. At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 22.13 A special order may provide for the consideration of a bill where general debate is to be divided between two committees involved with the bill, and where no amendments may be offered to one title except by direction of one of the committees, and where no amendments may be offered to the other title except by direction of the second committee.

On May 4, 1961, the House adopted a special order reported by the Committee on Rules:

Mr. [James W.] Trimble [of Arkansas]: Mr. Speaker, by direction of the Committee on Rules, I call up the resolution (H. Res. 275) providing for the consideration of H.R. 6713, a bill to amend certain laws relating to Federal-aid highways, to make certain adjustments in the Federal-aid highway program, and for other purposes, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6713) to amend certain laws relating to Federal-aid highways, to make certain adjustments in the Federal-aid highway program, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill, and shall continue not to exceed six hours, three hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, and three hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendments shall be in order to title I of the bill except amendments offered by direction of the Committee on Public Works, and no amendments shall be in order to title II of the bill except amendments offered by direction of the Committee on Ways and Means, which shall be in order notwithstanding any rule of the House to the contrary, but any such amendments shall not be subject to amendment. At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.[8]

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[8] 107 Cong. Rec. 7378, 87th Cong. 1st Sess.

Parliamentarian's Note: The bill provided for originated from draft legislation submitted by the President and referred to the Committee on Ways and Means, since containing extensive revisions of the revenue features associated with the highway program. The Committee on Ways and Means considered the tax measures contained therein and informally reported their recommendations to the Committee on Public Works. A "clean bill," H.R. 6713, was introduced by George H. Fallon, of Maryland, Chairman of the Committee on Public Works Subcommittee on Public Roads, and was reported by the Committee on Public Works; title II of the reported bill contained the tax measures.

When the bill was considered in Committee of the Whole, the Chairman and ranking minority member of the Committee on Public Works were first recognized for general debate and they used all the time they wished to consume before the Chairman of the Committee on Ways and Means was recognized to debate title II of the bill.

Special Orders Closed in Part, Open in Part

§ 22.14 Form of special order dividing general debate between two committees and providing that one part of the bill, within one committee's jurisdiction, be open to amendment and that the other part of the bill, within the other committee's jurisdiction, be closed to amendment.

The following resolution was under consideration on Nov. 6, 1969:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14465) to provide for the expansion and improvement of the Nation's airport and airway system, for the imposition of airport and airway user charges, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, title I of the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of title I of the bill for amendment, title II of the bill shall be considered as having been read for amendment. No amendments shall be in order to title II of the bill except amendments offered by the direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.[9]

§ 22.15 Form of special order dividing general debate between two committees and providing that parts of the bill, within one committee's jurisdiction, be open to amendment and that another part of the bill, within the other committee's jurisdiction, be closed to amendment.

The following resolution was considered on Sept. 23, 1970:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, three hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of title II of the amendment in the nature of a substitute for amendment, title III of said substitute shall be considered as having been read for amendment. No amendments shall be in order to title III of said substitute except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction.(10)

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[9] H. Res. 610, 115 Cong. Rec. 33260, 91st Cong. 1st Sess.

Closed Rule for Consideration in House

§ 22.16 The right to offer amendments does not exist where a special rule, in providing for the consideration of a bill in the House, orders the previous question after a fixed time for general debate.

On Mar. 11, 1933, Mr. Joseph W. Byrns, of Tennessee, offered a resolution, before committees were elected:

House Resolution 32

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of H.R. 2820, a bill to maintain the credit of the United States Government, and all points of order against said bill shall be considered as waived; that, after general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Economy, the previous question shall be considered as ordered on the bill to final passage.

Speaker Henry T. Rainey, of Illinois, answered a parliamentary inquiry as to the right to offer amendments under the provisions of the resolution:

Mr. [Gordon] Browning [of Tennessee]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Browning: If this resolution is adopted, there will not be any privilege of amendment given to the House, under any consideration?

The Speaker: There will not be.(11)

Motion That Committee Rise With Recommendation Enacting Clause Be Stricken

§ 22.17 Where a bill is being considered under a rule permitting only committee amendments and no amendments thereto, a motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out is in order until the stage of amendment has passed, and is debatable, five minutes for and five against.

On Sept. 3, 1959,(12) the Committee of the Whole was considering H.R. 8678 (Federal Aid Highway

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(10) H. Res. 1216, 116 Cong. Rec. 33296, 91st Cong. 2d Sess.

(11) 77 Cong. Rec. 198, 73d Cong. 1st Sess.

(12) 105 Cong. Rec. 17988, 17989, 86th Cong. 1st Sess.

Act) for amendment under the five-minute rule, pursuant to a "closed" rule permitting only committee amendments and no amendments thereto. After a Member had spoken for five minutes in favor of a pending committee amendment (there being other committee amendments not yet considered), the Chair refused recognition for another speech in favor of the amendment, and the Committee proceeded as follows:

> THE CHAIRMAN:[13] The Chair will state to the gentleman that only 5 minutes is permitted in support of the amendment and 5 minutes in opposition. Five minutes has been consumed in support of the amendment. Therefore, the Chair cannot recognize the gentleman at this time.
>
> The question is on the amendment.
>
> The amendment was agreed to. . . .
>
> THE CHAIRMAN: The time of the gentleman from New York has expired, all time on the amendment has expired.
>
> MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I offer a preferential motion.
>
> THE CHAIRMAN: The Clerk will report the motion.
>
> The Clerk read as follows:
>
> Mr. Hays moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. Hays debated the motion for five minutes and another Member was recognized for five minutes in opposition to the motion.

The bill was being considered under a special order providing as follows:[14]

> . . . After general debate, which shall be confined to the bill, and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Public Works. Amendments offered by direction of the Committee on Public Works may be offered to any section of the bill at the conclusion of the general debate, but said amendments shall not be subject to amendment.[15]

§ 22.18 Where a bill is being considered under a "closed" rule permitting only committee amendments and no amendments thereto, a motion that the Committee rise and report the bill back

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[13] William Pat Jennings (Va.).

[14] H. Res. 372, 105 CONG. REC. 17946, 86th Cong. 1st Sess.

[15] See also 106 CONG. REC. 12720-25, 86th Cong. 2d Sess., June 15, 1960; and 106 CONG. REC. 10577-79, 86th Cong. 2d Sess., May 18, 1960.

to the House with the recommendation that the enacting clause be stricken out is not in order where no committee amendments are offered, since the stage of amendment has been passed.

On Apr. 16, 1970, the Committee of the Whole concluded general debate on H.R. 16811 (the Family Assistance Act of 1970) where the House had adopted a "closed" rule for the consideration of the bill (H. Res. 916), allowing only committee amendments to the bill, such amendments not be be subject to amendment. Chairman John D. Dingell, of Michigan, indicated in response to a parliamentary inquiry that since the bill was considered read for amendment and no committee amendments were offered, the stage of amendment was passed and a preferential motion was not in order:(16)

Mr. [Wilbur D.] Mills [of Arkansas]: Mr. Chairman, I have no further requests for time. I had some time to reserve for myself, but I yield back the balance of my time.

The Chairman: Under the rule, the bill is considered as having been read for amendment. No amendments are in order to the bill except amendments offered by direction of the Committee on Ways and Means.

Are there any committee amendments?

Mr. Mills: Mr. Chairman, there are no committee amendments.

Mr. [Omar T.] Burleson of Texas: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Burleson of Texas: Mr. Chairman, I have a preferential motion. Is it in order to offer a preferential motion at this time?

The Chairman: Will the gentleman advise the Chair what sort of preferential motion he has in mind?

Mr. Burleson of Texas: To strike the enacting clause.

The Chairman: The Chair will advise the gentleman from Texas that that motion is not in order unless amendments are in order, and are offered. There being no committee amendments, that motion will not be in order at this time.

Mr. Burleson of Texas: Mr. Chairman, may I inquire, if there are no committee amendments to be offered, if the bill is perfected?

The Chairman: The Chair will advise the gentleman from Texas that the chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. Mills), has just advised the Chair that there are no committee amendments. That being so, the motion is not in order at this time.

Under the rule, the Committee rises.

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16. 116 Cong. Rec. 12092, 91st Cong. 2d Sess.

Pro Forma Amendments Under Closed Rule

§ 22.19 Form of resolution permitting only committee amendments and a specified amendment, such amendments not being subject to amendment except pro forma amendments.

The following resolution was under consideration on Feb. 24, 1955:

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4259) to provide a 1-year extension of the existing corporate normal-tax rate and of certain existing excise-tax rates, and to provide a $20 credit against the individual income tax for each personal exemption. After general debate, which shall be confined to the bill and shall continue not to exceed 4 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means or one amendment to strike out all after line 17, page 4, of the bill, but said amendments shall not be subject to amendment except pro forma amendments which shall be in order. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit.(17)

§ 22.20 Pro forma amendments are not in order when a bill is being considered under a closed rule which permits no amendments except by direction of the committee reporting the bill, such amendments not to be subject to amendment.

On Sept. 3, 1959,(18) the House adopted a resolution providing for the consideration of the Federal Aid Highway Act and limiting amendments as follows:

> . . . After general debate, which shall be confined to the bill, and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Public Works. Amendments offered by direction of the Committee on Public Works may be offered to any section of the bill at the conclusion of the general

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17. H. Res. 153, 101 Cong. Rec. 2031, 84th Cong. 1st Sess.

18. H. Res. 372, 105 Cong. Rec. 17946, 86th Cong. 1st Sess.

debate, but said amendments shall not be subject to amendment.

While this bill was under consideration in Committee of the Whole, Chairman William Pat Jennings, of Virginia, ruled that pro forma amendments (to "strike out the last word") were not in order:

> **The Chairman**: No amendments are in order except amendments offered by the Committee on Public Works. The Clerk will report the first committee amendment.
>
> The Clerk read as follows:
>
> Committee amendment: Page 2, line 4, after "1956" insert "as amended."
>
> **Mr. [Frank J.] Becker** [of New York]: Mr. Chairman, I move to strike out the last word.
>
> **The Chairman**: The Chair will state to the gentleman that that is not in order.
>
> The question is on the committee amendment.
>
> The committee amendment was agreed to.(19)

Chairman Samuel S. Stratton, of New York, made a similar ruling on Oct. 5, 1962, when House Concurrent Resolution 570 (expressing the sense of Congress with respect to Berlin) was being considered under a similar special order.(1)

> **The Chairman**: There being no further requests for time, under the rule the House concurrent resolution is considered as having been read for amendment. No amendment is in order except amendments offered by the direction of the Committee on Foreign Affairs and such amendments shall not be subject to amendment.
>
> The Clerk will report the committee amendment.
>
> The Clerk read as follows:
>
> Committee amendment: Page 2, line 2, after "concurring," strike out the remainder of page 2 and lines 1, 2, and 3 on page 3 and insert the following: . . .
>
> **Mr. [Thomas B.] Curtis** of Missouri: Mr. Chairman, I move to strike out the last word.
>
> **The Chairman**: The Chair will state that the only amendment in order is the amendment offered by the committee.
>
> The gentleman can rise in support of the amendment.
>
> **Mr. Curtis** of Missouri: Mr. Chairman, I rise in support of the amendment.
>
> **The Chairman**: The gentleman is recognized for 5 minutes.

On Mar. 8, 1960,(2) the House adopted House Resolution 468, providing for the consideration of H.R. 5, the Foreign Investment Incentive Tax Act, and limiting amendments as follows:

> . . . After general debate, which shall be confined to the bill, and shall continue not to exceed three hours, to

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19. *Id.* at pp. 17987, 17988.

1. H. Res. 827, 108 Cong. Rec. 22636, 87th Cong. 2d Sess.

2. 106 Cong. Rec. 4956, 86th Cong. 2d Sess.

be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on Ways and Means now in the bill and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. No other amendment to the bill or committee substitute shall be in order except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but such amendments shall not be subject to amendment.

On May 18, while H.R. 5 was under consideration in Committee of the Whole, Chairman William H. Natcher, of Kentucky, answered an inquiry on recognition to discuss amendments:(3)

MR. [CLEVELAND M.] BAILEY [of West Virginia]: I rise in opposition to the amendment, and I oppose the legislation in general.

Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. BAILEY: On what ground may I get recognition for the purpose of opposing the legislation?

THE CHAIRMAN: The Chair recognized the gentleman from Louisiana [Mr. Boggs] for 5 minutes in support of the committee amendment, so the gentleman from Louisiana would have to yield to the distinguished gentleman from West Virginia.

MR. BAILEY: At the expiration of the 5 minutes allowed the gentleman from Louisiana, may I be recognized to discuss the amendment?

THE CHAIRMAN: If no other member of the committee rises in opposition to the amendment, the Chair will recognize the gentleman.

§ 22.21 Pro forma amendments are not in order when a bill is being considered under a "closed" rule.

On Mar. 16, 1965, the House adopted House Resolution 272 (providing for the consideration of H.R. 5505, federal standards for congressional districting). The resolution was a "closed" rule, allowing only committee amendments:(4)

. . . After general debate, which shall be confined to the bill and continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on the Judiciary,

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3. *Id.* at p. 10576.

4. 111 CONG. REC. 5080, 89th Cong. 1st Sess.

and except amendments offered by the chairman or any member of the Committee on the Judiciary with respect to the following language of the bill: Page 2, line 6, beginning after the word "entitled" through the end of that sentence on line 8, to wit, "and Representatives shall be elected only from districts so established, no district to elect more than one Representative.", but said amendments shall not be subject to amendment.

The Chairman of the Committee of the Whole, Albert C. Ullman, of Oregon, made a statement and answered an inquiry on permissible amendments following the conclusion of general debate:(5)

The Chairman: The time of the gentleman from California has expired. All time has expired.

Under the rule, the bill is considered as having been read for amendment. No amendments are in order to the bill except amendments offered by direction of the Committee on the Judiciary, or amendments offered by the chairman or any member of the Committee on the Judiciary to the language of the bill on page 2, line 6, beginning after the word "entitled" through the end of the sentence on line 8, but such amendments shall not be subject to amendment.

Are there any amendments made in order by the rule?

Mr. [Charles McC.] Mathias [Jr., of Maryland]: Mr. Chairman, I offer an amendment.

The Chairman: Is the amendment in accordance with the rule, I would ask the gentleman from Maryland?

Mr. Mathias: Yes, it is.

The Clerk read as follows: . . .

Mr. [John J.] Flynt [Jr., of Georgia]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Flynt: Mr. Chairman, my parliamentary inquiry is, Will any Member of the Committee of the Whole be entitled to recognition for the purpose of discussing the amendment of the gentleman from Maryland?

The Chairman: No amendments or pro forma amendments are in order under the rule.

Mr. Flynt: In other words, the gentleman from Maryland would be recognized for 5 minutes and one person to be recognized for 5 minutes in opposition thereto?

The Chairman: The gentleman is correct.

Requesting Closed Rule

§ 22.22 Pursuant to clause 17 of the Addendum of the Rules of the Democratic Caucus, a Member inserted in the Record notice of his intention to request the Committee on Rules to report to the House a "modified closed rule" for the consideration of a bill reported from the Committee on the Judiciary.

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5. *Id.* at p. 5099.

On Nov. 12, 1973,(6) Mr. William L. Hungate, of Missouri, a member of the Committee on the Judiciary who would be managing a bill reported from that committee on the floor, made an announcement regarding the request for a special order from the Committee on Rules for the consideration of the bill:

> Mr. Speaker, on Tuesday, October 6, 1973, the Committee on the Judiciary ordered favorably reported the bill H.R. 5463, to establish rules of evidence for certain courts and proceedings.
>
> Pursuant to the provisions of clause 17 of the Addendum to the Rules of the Democratic Caucus for the 93d Congress, I am hereby inserting in the *Congressional Record* notice of my intention to request, following the expiration of 4 legislative days, the Committee on Rules to report to the House a resolution providing for a "modified closed rule" on the bill H.R. 5463. The rule I will be requesting would provide in effect that after an extensive period of general debate not to exceed 4 hours, on the bill, further consideration of the bill for amendment would be postponed to a time certain to give Members an opportunity to draft and to insert in the Record any amendments which they proposed to offer to the bill. Those amendments, if offered, would not be subject to amendment, on the floor, and article V of the bill, the "Privilege" article, would not be subject to amendment. Such a rule would I believe, best permit the House of Representatives to work its will on this important and complicated piece of legislation.

Parliamentarian's Note: Addendum 17 to the Rules of the Democratic Caucus read as follows in the 93d Congress, first session:

> 17. (*a*) It shall be the policy of the Democratic Caucus that no committee chairman or designee shall seek, and the Democratic Members of the Rules Committee shall not support, any rule or order prohibiting any germane amendment to any bill reported from committee until four (4) legislative days have elapsed following notice in the *Congressional Record* of an intention to do so. (*b*) If, within the four (4) legislative days following said notice in the *Congressional Record*, 50 or more Democratic Members give written notice to the chairman of the committee seeking the rule and to the chairman of the Rules Committee that they wish to offer a particular germane amendment, the chairman or designee shall not seek and the Democratic Members of the Rules Committee shall not support, any rule or order relating to the bill or resolution involved until the Democratic Caucus has met and decided whether the proposed amendment should be allowed to be considered in the House. (*c*) If 50 or more Democratic Members give notice as provided in subsection (*b*) above, then, notwithstanding the provisions of Caucus Rule No. 3, the Caucus shall meet for such purpose within three (3) legislative

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6. 119 Cong. Rec. 36651, 36652, 93d Cong. 1st Sess.

days following a request for such a Caucus to the Speaker and the chairman of the Democratic Caucus by said committee chairman or designee. (*d*) *Provided*, further, that notices referred to above also shall be submitted to the Speaker, the Majority Leader, and the chairman of the Democratic Caucus.

§ 23. Waiving and Permitting Points of Order

The Committee on Rules, pursuant to its jurisdiction over the rules and order of business, may report resolutions providing that during the consideration of a measure or measures, it shall be in order to proceed in a certain way notwithstanding the provisions of a House rule or rules which would otherwise prohibit proceeding in such manner.(7) Thus a point of order does not lie against a report from the Committee on Rules on the ground that it changes or violates the rules of the House by waiving the provisions of certain rules.(8) Provisions which the Committee on Rules may not by resolution waive are those relating to the right to offer a motion to recommit, and the requirement of a two-thirds vote to dispense with Calendar Wednesday, both cited in Rule XI clause 23.(9)

The reader is advised to consult other relevant sections of this chapter for the applicability of special orders waiving points of order to specific subjects.(10)

Resolutions waiving points of order are strictly construed and points of order are deemed waived only to the extent of the specific language of the rule. Thus, a resolution waiving points of order against the text of a bill does not protect nongermane amendments

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7. A special order reported from the Committee on Rules may waive all rules or designated rules for a certain purpose. A motion to suspend the rules and pass a bill, however, suspends all rules in conflict with the motion (see § 9, supra). A unanimous-consent request may also be used to suspend rules in conflict with the request.

8. See §§ 23.1–23.3, 23.48, infra.

9. *House Rules and Manual* § 729 (1973) [now Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].

For special orders affecting the motion to recommit, see § 26, infra. The House may by unanimous consent dispense with Calendar Wednesday. See § 4, supra.

10. See in particular § 21, supra, for resolutions making in order and waiving points of order against designated amendments and § 27, infra, for resolutions waiving various points of order in relation to Senate bills and amendments and conference reports.

offered from the floor.(11) Where a designated amendment is made in order and protected by a special order, parts of that amendment are not protected if offered as independent amendments.(12) And a resolution waiving points of order against specific amendments, such as committee amendments, does not extend to other amendments offered from the floor, although a floor amendment may be offered to a nongermane amendment protected by resolution, if germane to such amendment and otherwise in order under the rules of the House.(13)

The Committee on Rules may recommend waiving points of order against bills or resolutions where defects in committee reports thereon would otherwise prevent consideration if a point of order were raised. It is presently the practice to specifically waive such points of order by reference to a specific rule and clause thereof.(14) Or a resolution may, by providing that notwithstanding any rule of the House to the contrary it shall be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill, waive all possible reporting defects which would prevent the consideration of the bill.(15) Where a resolution provides for the consideration of a bill not yet reported from committee, points of order do not lie that there is no committee report and that committee reporting requirements under the rules have not been met.(16)

Resolutions waiving points of order are often used in considering general appropriation bills, which under Rule XXI clause 2(17) are subject to points of order if containing unauthorized appropriations or legislation. In recent years the Committee on Rules has recommended specific waivers of points of order rather than complete waivers against appropriation bills.(18) A resolution waiving points of order against an appropriation bill or

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11. See § 23.5, infra.
12. See § 23.20, infra.
13. See §§ 23.23, 23.24, 23.43–23.47, infra.
14. See §§ 23.6, 23.13, infra.
15. See §§ 23.7–23.12, infra. In an early ruling, no longer valid, the Speaker held that a resolution simply making it in order to resolve into the Committee of the Whole for consideration of a bill, but not waiving points of order, cured defects in reporting of the bill. See § 23.11, infra.
16. See, for example, § 20.8, supra.
17. *House Rules and Manual* § 834 (1979).
18. See § 23.26, infra.

amendment thereto may waive all points of order, may waive points of order under Rule XXI clause 5[19] (reappropriations in a general appropriation bill), may waive points of order under Rule XXI clause 2 only with respect to legislation in the bill or only with respect to unauthorized appropriations in the bill, or may restrict the waiver to certain language in the bill for any of the foregoing reasons.

A resolution which only waives points of order against the bill or a specific amendment does not protect amendments offered from the floor, which must be germane and may not add additional legislation or unauthorized appropriations to those contained in the bill, or amendment thereto, protected by a special order.[20]

Where a portion of an appropriation bill or an amendment thereto is protected by a special order during its consideration in the House, the waiver carries over to identical provisions in the conference report on the bill, since under Rule XX clause 2, House conferees are only proscribed from agreeing to provisions in a Senate amendment which would have been subject to a point of order if originally raised in the House.[1]

Cross References

As to appropriation bills and points of order, see Chs. 25, 26, infra.

As to amendments and the germaneness rule, see Ch. 28, infra.

As to points of order generally, see Ch. 31, infra.

As to suspension of rules as waiving all rules, see § 9, supra.

As to the authority of the Committee on Rules to recommend changing or waiving the rules of the House, see § 16, supra.

As to committee procedure and reports and points of order against consideration of bills improperly reported, see § 17, supra.

As to making in order and waiving points of order against designated amendments, see § 21, supra.

As to waiving points of order against the motion to recommit, see § 26, infra.

As to waiving points of order against conference reports and motions on amendments in disagreement, see § 27, infra.

Authority to Waive Points of Order

§ 23.1 Rules of the House may be changed by a majority vote by the adoption of a resolution

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[19] *House Rules and Manual* § 847 (1973). [Rule XXI clause 6, *House Rules and Manual* § 847 (1979).]

[20] See §§ 23.30, 23.31, 23.43–23.47, infra.

[1] See § 23.37, infra.

from the Committee on Rules providing for such a change, such as waiving points of order in the consideration of a bill.

On June 14, 1930,(2) Mr. Bertrand H. Snell, of New York, called up, by direction of the Committee on Rules House Resolution 253, providing for the consideration of two conference reports on the same bill together as one, for the purposes of debate and voting. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution, where the point of order was based on the fact that the resolution waived all points of order in the consideration of the reports:

Mr. [John J.] O'Connor [of New York]: Mr. Speaker, I desire to make a point of order against the resolution.

The Speaker: The gentleman will state it.

Mr. O'Connor of New York: The resolution provides that "in the consideration of the reports all points of order shall be waived." Points of order are based on the rules of the House, either the few published rules or the precedents and rulings by presiding officers. This resolution proposes to do in effect what should be done by a motion to suspend the rules. The difficulty is, however, that to suspend the rules a two-thirds vote is required. This is not a resolution brought in for the purpose of obtaining by a majority vote the direct repeal of all of the rules of the House but is intended to serve a certain specific purpose in reference to only one measure of the House. For instance, the rule relating to Calendar Wednesday requires that to set that aside there must be a two-thirds vote. The rule prohibiting legislation on an appropriation bill could not be set aside, in my opinion, by this method, and that applies to other rules of the House. Points of order being rules of the House, in my opinion this resolution violates the rules of the House, in that it sets aside all rules relating to points of order.

Mr. Snell: Mr. Speaker, I should be very glad to argue the point of order with the gentleman if I knew what his point of order is, but from anything my friend has said so far, I am unable to identify it.

The Speaker: The Chair will state it is not necessary. This is a very ordinary proceeding. It has been done hundreds of times to the knowledge of the Chair. The Chair overrules the point of order.

On Oct. 27, 1971,(3) the House had under consideration House Resolution 661, reported from the Committee on Rules and providing for consideration of H.R. 7248, to amend and extend the Higher Education Act and for other purposes. The resolution waived points of order against the committee amend-

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2. 72 Cong. Rec. 10694, 71st Cong. 2d Sess.

3. 117 Cong. Rec. 37768, 92d Cong. 1st Sess.

ment in the nature of a substitute for failure to comply with Rule XVI clause 7 (germaneness) and Rule XXI clause 4 (Rule XXI clause 5 in the 1979 *House Rules and Manual*, appropriations in a legislative bill) and also provided that points of order could be raised against portions of the bill whose subject matter was properly within another committee's jurisdiction rather than within the jurisdiction of the Committee on Education and Labor, which had reported the bill. (Under normal procedure, a point of order based on committee jurisdiction cannot be raised after a committee to which has been referred a bill has reported it, the proper remedy being a motion to correct reference under Rule XXII clause 4.)

In response to a parliamentary inquiry, Speaker Carl Albert, of Oklahoma, indicated that a majority vote, and not a two-thirds vote, would be required to adopt the resolution:

Mr. [Spark M.] Matsunaga [of Hawaii]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state the parliamentary inquiry.

Mr. Matsunaga: Mr. Speaker, at this point is it proper for the Speaker to determine whether a two-thirds vote would be required for the passage of this resolution, House Resolution 661, or merely a majority?

The Speaker: The resolution from the Committee on Rules makes in order the consideration of the bill (H.R. 7248) and a majority vote is required for that purpose.

Mr. Matsunaga: Even with the reference to the last section, Mr. Speaker, relating to the raising of a point of order on a bill which is properly reported out by a committee to which the bill was referred, which would in effect contravene an existing rule of the House?

The Speaker: The Committee on Rules proposes to make in order in its resolution (H. Res. 661) the opportunity to raise points of order against the bill on committee jurisdictional grounds, but as is the case with any resolution reported by the Committee on Rules making a bill a special order of business, only a majority vote is required.

Mr. Matsunaga: I thank the Speaker.

§ 23.2 It is for the House, and not the Chair, to decide upon the efficacy of adopting a special rule which has the effect of setting aside the standing rules of the House insofar as they impede the consideration of a particular bill; it is not within the province of the Chair to rule out, on a point of order, a resolution reported by the Committee on Rules which is properly before the House and which provides for a special order of business

(abrogating the provisions of Rule XX clause 1).

On Nov. 28, 1967,(4) the previous question had been moved on House Resolution 985, called up by direction of the Committee on Rules, providing for concurring in a Senate amendment to a House bill; the resolution was necessary in order to waive the requirement of Rule XX clause 1, that Senate amendments be considered in Committee of the Whole if, had they originated in the House, they would be subject to that procedure. Speaker John W. McCormack, of Massachusetts, overruled a point of order against the resolution:

MR. [PAUL C.] JONES of Missouri: Mr. Speaker, I make a point of order against a vote on this resolution, and I make the point of order based entirely on rule XX, which says that any amendment of the Senate to any House bill shall be subject to a point of order that it shall first be considered in the Committee of the Whole House on the State of the Union. If it originated in the House it would be subject to that point of order. I believe there is no question about it being subject to a point of order should it originate here in this House. Until that issue is debated in the Committee of the Whole House on the State of the Union I believe that we are violating rule XX of the House rules.

THE SPEAKER: The Chair will state that the Chair has previously ruled on the point of order raised by the gentleman, and the matter is one that is now before the House for the consideration of the House, and the will of the House.

For the reasons heretofore stated and now stated, the Chair overrules the point of order.

MR. JONES of Missouri: Respectfully, Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. JONES of Missouri: Mr. Speaker, can the Chair tell me under what authority the House can consider this in the House rather than in the Committee of the Whole House on the State of the Union, in view of rule XX which says it shall first be considered in the Committee of the Whole House on the State of the Union?

THE SPEAKER: The Chair will state that the House can change its rules at any time upon a resolution that is properly before the House reported by the Committee on Rules. The present resolution has been put before the House by the Committee on Rules within the authority of the Committee on Rules, therefore the matter presents itself for the will of the House.

MR. JONES of Missouri: Mr. Speaker, a further parliamentary inquiry.

The reason I am making this is that I want to get some record on this for this reason: The Chair has said that the Committee on Rules may make a resolution which has not been adopted by the House which summarily amends the

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4. 113 CONG. REC. 34038, 34039, 90th Cong. 1st Sess.

Rules of the House which the Members of the House are supposed to rely upon. This rule has not been adopted as yet.

THE SPEAKER: The Chair will state that the Committee on Rules has reported the rule under consideration——

MR. JONES of Missouri: But it has never been voted upon.

THE SPEAKER: The Chair will state that we are about to approach that matter now.

MR. JONES of Missouri: And I am challenging that, and the point of order is made that we cannot vote on that because it says in rule XX that this first shall be considered in the Committee of the Whole House on the State of the Union.

THE SPEAKER: The Chair cannot be any more specific or clear in responding to the point of order or in answering the gentleman's parliamentary inquiry.

The matter is properly before the House and it is a matter on which the House may express its will.

The Speaker had previously, when the resolution was called up, overruled the same point of order:[5]

The Chair is prepared to rule. The Chair has given serious consideration to the point of order raised by the gentleman from Missouri. The Committee on Rules has reported out a special rule. It is within the authority of the rules, and a reporting out by the Rules Committee is consistent with the rules of the House. Therefore, the Chair overrules the point of order.

§ 23.3 It is the duty of the Chair to determine whether language in a pending bill conforms to the rules of the House, but where the House has adopted a resolution waiving points of order against provisions in violation of the standing rules, the Chair will not construe the constitutional validity of those provisions.

On May 10, 1973,[6] the Committee of the Whole was considering for amendment the bill H.R. 7447, making supplemental appropriations, where the House had previously adopted House Resolution 389 waiving points of order against unauthorized appropriations, legislation, and reappropriations of unexpended balances in the bili. Mr. Sidney R. Yates, of Illinois, made a point of order against language contained in the bill, appropriating moneys for the Department of Defense, on the grounds that such appropriation violated constitutional principles:

MR. YATES: Mr. Chairman. I make a point of order against the language set forth in lines 10, 11, and 12, on page 6.

Article I, section 8, of the Constitution of the United States says:

> The Congress shall have the power to declare war.

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[5] *Id.* at pp. 34032, 34033.

[6] 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess.

A Congress has not declared war against Cambodia or Laos or against any other country in Southeast Asia for that matter. Congress has not given the President any authority to use the American Armed Forces in Cambodia and Laos. Nevertheless, on order of President Nixon, American military planes are bombing in both those countries. The appropriation contained in the transfer authority includes funds to continue the bombing of Cambodia and Laos. . . .

Now, my argument, Mr. Chairman, will not relate to an interpretation by the Chair of the Constitution. I want to make that clear at this point.

Rule XXI, paragraph 2 of the Rules of the House says:

> No appropriation shall be reported in any general appropriation bill for any expenditure not previously authorized by law.

Mr. Chairman, under that rule it is not enough that there be ordinary legislative authority which is required for other appropriations. It is not enough that there be ordinary legislative authority upon which to base an appropriation for American Armed Forces to engage in war.

There must be constitutional authority for that appropriation as well, namely, there must be congressional approval for American forces to engage in a war. Both authorizations are essential for that kind of appropriation.

Mr. Chairman, I am contending that there are two forms of legislative authorization that are essential for military appropriations which are to be used to carry on a war, as the bombing is in Cambodia and Laos. One is the ordinary legislative authorization, and the other, which is necessary, also, is a following of the constitutional mandate as well.

It will be argued, Mr. Chairman, what difference does that make? Points of order have been waived by rule approved by the House and granted by the Committee on Rules. That argument might be appropriate with respect [to] the need for ordinary legislation which would authorize the use of that transfer of authority, but, as I pointed out, we have two forms of legislation. While that waiver of points of order might apply to ordinary legislation, it cannot apply to a waiver of the constitutional provisions, because the Committee on Rules cannot waive any constitutional provisions. The provisions of the Constitution cannot be waived by the Committee on Rules, because to hold otherwise would be to authorize any unconstitutional action by the House. This House cannot pass any rule of procedure that would vitiate or violate any provision of the Constitution. . . .

I am asking the Chair for its ruling on two points. One, I ask the Chair to rule with respect to military appropriations which provide funds for American Armed Forces to engage in war under rule XXI, section 2, of the Rules of Procedure of the House of Representatives, which states there must be, as well as any other legislation authorizing such action, compliance with article I, section 8, of the U.S. Constitution, which requires the approval of the

Congress for American Armed Forces to engage in that war; and, secondly, I am asking the Chair to rule that the requirements in article XI, section 8, cannot be waived by any rule of the Committee on Rules.

Mr. Chairman, with your ruling, if favorable, the language authorizing the transfer authority should be stricken.

After further argument, Chairman Jack B. Brooks, of Texas, ruled as follows:

The Chair is ready to rule.

The Chair has read the resolution, and the resolution adopted by the House under which this legislation is being considered says that—

> All points of order against said bill for failure to comply with the provisions of clause 2 and clause 5 of rule XXI are hereby waived.

Under clause 2, which the Chair has read, the pending paragraph would be subject to a point of order, as legislation, were it not for this rule.

The Chair is not in a position, nor is it proper for the Chair to rule on the constitutionality of the language, or on the constitutionality or other effect of the action of the House in adopting the resolution of the Committee on Rules. In the headnotes in the precedents of the House it very clearly states that it is not the duty of a chairman to construe the Constitution as it may affect proposed legislation, or to interpret the legality or effect of language; and the Chair therefore overrules the point of order raised by the gentleman from Illinois (Mr. Yates).

Waiving All Points of Order Against Bill or Against Its Consideration

§ 23.4 Form of resolution providing "that notwithstanding the provisions of any other rule of the House" it shall be in order to resolve into the Committee of the Whole for consideration of a joint resolution.

The following resolution was under consideration on July 1, 1946:[7]

Resolved, That notwithstanding the provisions of any other rule of the House immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the joint resolution (H.J. Res. 371, extending the effective period of the Emergency Price Control Act of 1942), as amended, and the Stabilization Act of 1942, as amended, and all points of order against said joint resolution are hereby waived. That after general debate, which shall be confined to the joint resolution and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the joint resolution for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

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[7] H. Res. 689, 92 Cong. Rec. 8059, 79th Cong. 2d Sess.

§ 23.5 Waiving points of order against the text of a bill (through adoption of a resolution making its consideration a special order and waiving points of order against the bill) does not vitiate the requirement in Rule XVI clause 7, that amendments from the floor must be germane.

On Aug. 22, 1963, the Committee of the Whole was considering for amendment the Foreign Assistance Act Amendments of 1963, pursuant to a special order (H. Res. 493) which made in order the consideration of said bill and waived all points of order against the bill. Chairman pro tempore Wilbur D. Mills, of Arkansas, ruled that the waiver did not extend to nongermane amendments offered from the floor:[8]

Mr. [Robert J.] Dole [of Kansas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows: . . .

Mr. [Thomas E.] Morgan [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment.

The Chairman [Albert M. Rains, of Alabama]: The gentleman will state the point of order.

Mr. Morgan: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the foreign aid bill.

Mr. Dole: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman from Kansas will state the parliamentary inquiry.

Mr. Dole: Mr. Chairman, is it not true that all points of order have been waived on this bill?

The Chairman: Under the rule, all points of order are waived as to the text of the bill, as reported by the committee. Points of order are not waived as to amendments that might be offered to the bill. . . .

The Chairman Pro Tempore: The Chair is prepared to rule.

The gentleman from Kansas [Mr. Dole] offers an amendment to the bill which the Chair has had an opportunity to read and analyze. The gentleman from Pennsylvania [Mr. Morgan] makes the point of order against the amendment on the ground that it is not germane to the bill before the Committee. The Chair is of the opinion that the amendment is not germane to the bill.

The point of order is sustained.

Waiving Defects in Reporting of Bill

§ 23.6 Form of resolution waiving points of order against a bill on the grounds of noncompliance

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[8] 109 Cong. Rec. 15608, 88th Cong. 1st Sess.

with the Ramseyer rule (Rule XIII clause 3).

The following resolution was under consideration on Apr. 15, 1970:(9)

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16311) to authorize a family assistance plan providing basic benefits to low-income families with children, to provide incentives for employment and training to improve the capacity for employment of members of such families, to achieve greater uniformity of treatment of recipients under the Federal-State public assistance programs and to otherwise improve such programs, and for other purposes, and any point of order against said bill pursuant to clause 3, Rule XIII, is hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed six hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding. Amendments offered by direction of the Committee on Ways and Means may be offered to any section of the bill at the conclusion of the general debate, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 23.7 Despite certain defects in the consideration or reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules.

On May 2, 1939,(10) Mr. Samuel Dickstein, of New York, made a point of order against an order of business resolution reported by the Committee on Rules and called up for consideration (H. Res. 175), on the ground that the bill made in order by the resolution had been referred to, considered by, and reported from a committee (the Committee on the Judiciary) which had no jurisdiction over the subject matter involved (the special rule made in order a motion to resolve

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9. H.Res. 916, 116 Cong. Rec. 11863, 91st Cong. 2d Sess.

10. 84 Cong. Rec. 5052-55, 76th Cong. 1st Sess.

into the Committee of the Whole to consider the bill but waived no points of order). After extended argument on the point of order, Speaker William B. Bankhead, of Alabama, overruled the point of order on the ground that after a public bill has been reported it is not in order to raise a question of committee jurisdiction. The Speaker further commented that even if there were defects in the committee consideration and report, the rule from the Committee on Rules would have the effect of remedying such defects:

> Mr. [Carl E.] Mapes [of Michigan]: Mr. Speaker, in order to protect the rights of the Committee on Rules, will the Chair permit this observation? The gentleman from New York slept on his rights further until the Committee on Rules reported a rule making the consideration of this measure in order. Even though the reference had been erroneous and the point of order had been otherwise made in time, the Committee on Rules has the right to change the rules and report a rule making the legislation in order. This point also might be taken into consideration by the Speaker, if necessary.
>
> The Speaker: The Chair is of the opinion that the statement made by the gentleman from Michigan, although not necessary to a decision of the instant question, is sustained by a particular and special decision rendered by Mr. Speaker Garner on a similar question. The decision may be found in the Record of February 28, 1933. In that decision it is held, in effect, that despite certain defects in the consideration or the reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules making in order a motion to consider such bill. The Chair thinks that that decision by Mr. Speaker Garner clearly sustains the contention made by the gentleman from Michigan.[11]

On July 23, 1942,[12] Mr. John E. Rankin, of Mississippi, made a point of order against a bill "not legally before the House," on the grounds that the committee of jurisdiction, the Committee on Election of President, Vice President, and Representatives in Congress, had never reported the bill with a quorum present. Speaker Sam Rayburn, of Texas, responded as follows:

> The Chair is ready to rule.
>
> At this time there is no bill pending before the House. A resolution reported by the Committee on Rules will be presented to the House, which, if adopted, will make in order the consideration of H.R. 7416. If the Committee on Election of President, Vice President, and Representatives in Congress had never taken any action upon this bill and the

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[11] For the Feb. 28, 1933, decision referred to by the Chair, see § 23.11, infra.

[12] 88 Cong. Rec. 6541, 6542, 77th Cong. 2d Sess.

Committee on Rules had decided to report a rule making it in order and putting it up to the House whether or not the House would consider the bill, they would have been within their rights. Therefore, the Chair cannot do otherwise than hold that there is nothing at the time before the House. It is anticipated that a special rule will be presented, making in order the consideration of H.R. 7416. If the House adopts the rule then the House has decided that it desires to consider the bill at this time, and the Chair therefore overrules the point of order of the gentleman from Mississippi [Mr. Rankin] and recognizes the gentleman from Illinois [Mr. Sabath].

Parliamentarian's Note: It is the present practice to specifically waive points of order against consideration of bills because of defects in committee reports. For example, the failure of a committee to comply with the "Ramseyer" rule (Rule XIII clause 3) may be raised after the House agrees to a resolution making the consideration of the bill in order and before the House resolves itself into the Committee of the Whole to consider the bill, where the resolution does not waive that point, or all points of order.

§ 23.8 The Chair indicated in response to a parliamentary inquiry that if a pending "closed" rule providing for the consideration of the bill were rejected, the bill would not be called up since the committee report did not comply with the "Ramseyer" rule and could be considered only if the rule, waiving points of order, were adopted.

On May 21, 1970, there was pending before the House a "closed" rule (H. Res. 1022) providing for and waiving points of order against the consideration of a bill reported from the Committee on Ways and Means, amending the Social Security Act. Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries on the effect of rejection of the resolution:(13)

MR. [PHILLIP] BURTON of California: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. BURTON of California: Mr. Speaker, as I understand the situation, if the rule is rejected, then that would leave us an effective opportunity to restore the current Federal matching to the States for certain nursing home care after 90 days; is that correct, Mr. Speaker?

THE SPEAKER: The Chair understands the gentleman's question, but the Chair must state that that is not a parliamentary inquiry.

MR. [RICHARD] BOLLING [of Mis-

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13. 116 CONG. REC. 16554, 16555, 91st Cong. 2d Sess.

souri]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Bolling: As the manager of the rule, would I be correct in stating that the parliamentary situation would be that if this rule were defeated, the bill made in order by the rule, namely, the increase in social security, could not come up?

The Speaker: The Chair will state that that is a matter of procedure and a question for the gentleman from Arkansas [Chairman of the Committee on Ways and Means].

Mr. Bolling: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Bolling: If the rule making in order the bill which is provided for by the rule were defeated, the bill would not be in order?

The Speaker: The Chair will state, without passing upon the question at this point as to whether or not this would be a privileged bill, that if the rule should be rejected the bill would not come up at this time.

Mr. [John W.] Byrnes of Wisconsin: Mr. Speaker, will you permit me to comment on the fact that the report on this bill did not comply with the Ramseyer rule, so an objection could be made to bringing up the legislation unless there is a rule waiving that point of order.

Mr. [Wilbur D.] Mills [of Arkansas]: That is exactly the point of the gentleman from Missouri.

§ 23.9 Where the House adopts a resolution providing that it shall be in order, any rule of the House to the contrary notwithstanding, to move that the House resolve itself into Committee of the Whole for the consideration of a bill, such action waives the requirement of compliance with the Ramseyer rule (Rule XIII clause 3).

On Feb. 15, 1949, the House adopted a special order from the Committee on Rules providing for and waiving points of order against the consideration of an appropriation bill:(14)

> *Resolved*, That notwithstanding any rule of the House to the contrary, it shall be in order on Tuesday, February 15, 1949, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2632) making appropriations to supply urgent deficiencies for the fiscal year 1949, and for other purposes, and all points of order against the bill or any of the provisions contained therein are hereby waived. That after general debate which shall be confined to the bill and continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be read for amend-

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14. H. Res. 99, 95 Cong. Rec. 1214–18, 81st Cong. 1st Sess.

ment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Speaker Sam Rayburn, of Texas, then overruled a point of order against the consideration of the bill:[15]

Mr. [Francis H.] Case of South Dakota: Mr. Speaker, I make the point of order that the report accompanying the bill, H.R. 2632, does not comply with the so-called Ramseyer rule.

I call the attention of the Chair to the fact that although the resolution which has been adopted waives points of order against the bill by the provisions contained therein it does not specifically waive or exempt the so-called Ramseyer rule which requires that a report accompanying a bill, including appropriation bills, shall set forth in appropriate type the text of the statute it is proposed to repeal.

In this connection I invite the Chair's attention to the fact that on page 8 of the proposed bill, line 6, it is proposed to repeal a title in a previous act of Congress, and again on page 16, lines 15 and 16, the bill carries this language: "and the first, fourth, and fifth provisos under said head are hereby repealed."

I have diligently searched the entire report on the bill and can find no citation of the statute to be repealed in order to comply with the Ramseyer rule.

I make the point of order which, if sustained, as I understand it, would automatically recommit the bill to the committee.

The Speaker: The Chair will read the rule:

> Notwithstanding any rule of the House to the contrary, it shall be in order—
>
> And so forth—
>
> and all points of order against the bill or any of the provisions contained therein are hereby waived.

The Chair overrules the point of order.

Mr. Case of South Dakota: Mr. Speaker, will the Chair indulge me for a moment?

The Speaker: The Chair will indulge the gentleman.

Mr. Case of South Dakota: Under the rule in the House Manual, a citation is made to a precedent in the *Congressional Record* of the Seventy-first Congress, second session, page 10595. This citation reads:

> Special orders providing for consideration of bills, unless making specific exemption, do not preclude the point of order that reports on such bills fail to indicate proposed changes in existing law. (Cannon's, sec. 9220a; 71st Cong., 2d sess., *Congressional Record*, p. 10595.)

I fail to see any provision in the rule adopted which specifically exempt

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15. *Id.* at pp. 1218, 1219.

clause 2a of rule XIII, the Ramseyer rule.

The Speaker: The Ramseyer rule is a rule of the House, and this resolution states "all rules to the contrary notwithstanding," it shall be in order to consider the bill.

The Chair overrules the point of order.

§ 23.10 Where a special rule provides that "upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. – " (an open rule), the provisions of such rule do not prohibit the raising of a point of order under the Ramseyer rule.

On June 12, 1930, the House adopted a special order from the Committee on Rules (H. Res. 243) providing that "upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12549." During debate on the resolution, Speaker pro tempore John Q. Tilson, of Connecticut, answered a parliamentary inquiry on the proper time to raise a point of order against consideration of the bill on the grounds that the report thereon did not comply with the provisions of Rule XIII clause 2, the Ramseyer rule:[16]

Mr. [T. Jeff] Busby [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: Does the gentleman from Indiana yield for that purpose?

Mr. [Fred S.] Purnell [of Indiana]: For a parliamentary inquiry; yes.

Mr. Busby: Mr. Speaker, the rule we are about to consider deals with a legislative bill which was reported by the Committee on Patents. The report of the committee does not comply with the provisions of the Ramseyer rule. What I want to ask the Chair is this: At what point in the proceedings it would be proper for me to make a point of order against the consideration of this legislation because the report does not comply with the Ramseyer rule? Should it come before the rule is adopted?

The Speaker Pro Tempore: The present impression of the Chair is that such a point of order would be in order when the motion is made to go into the Committee of the Whole under the rule.

Mr. Busby: Then the rule does not automatically carry us into the Committee of the Whole?

The Speaker Pro Tempore: It does not. It makes it in order to move to go into the Committee of the Whole.

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[16] 72 Cong. Rec. 10593–96, 71st Cong. 2d Sess.

The Ramseyer rule was subsequently renumbered to become Rule XIII clause 3, *House Rules and Manual* § 745 (1979).

Mr. [Earl C.] Michener [of Michigan]: Mr. Speaker, it occurs to me that there might be another interpretation given the rule than that indicated by the Speaker in his last statement. This resolution makes it in order to move that the House consider this particular piece of legislation, H.R. 12549. If this particular piece of legislation is improperly on the calendar, a motion to strike it from the calendar is in order at any time; but when the Rules Committee by a special rule—which rule makes it possible to consider the bill—provides that it shall be in order to move to consider that bill, H.R. 12549, it seems to me that whether the bill was correctly reported or not has nothing to do with the matter. The Rules Committee may report a rule providing for consideration of a bill which has not even been reported. The report has no place in the picture. The rule makes in order the consideration of H.R. 12549, and not the report.

The Speaker Pro Tempore: It seems to the Chair that the Rules Committee has it entirely within its own power. If the Rules Committee by this rule, or by an amendment to this rule, should make it in order, regardless of paragraph 2(a) of Rule XIII, it would be in order; but as the rule now reads it occurs to the Chair that it does not go far enough to mark it in order in contravention of the general rules of the House.

Following the adoption of the resolution, Mr. Albert H. Vestal, of Indiana, moved that the House resolve itself into the Committee of the Whole for the consideration of the bill, and the Speaker pro tempore sustained a point of order (raised by Mr. Busby) against the consideration of the bill:(17)

The Speaker Pro Tempore: The Chair is ready to rule.

Paragraph 2a of Rule XIII reads:

> Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof, it shall include in its report or in accompanying document—
>
> (1) The text of the statute or part thereof which is proposed to be repealed; and
>
> (2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions proposed to be made.

Section 64 of the bill provides:

> The provisions of this act apply to existing copyrights save as expressly indicated by this Act. All other acts or parts of acts relating to copyrights are hereby repealed, as well as all other laws or parts of laws in conflict with the provisions of this act.

The gentleman from Indiana argues well that it would be a task of considerable magnitude to do what is proposed here, and yet that seems to be the purpose of the rule that the Member making the report of the committee shall do the work of investigation and submit to the House the information as to what statutes are to be repealed.

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17. 72 Cong. Rec. 10593-96, 71st Cong. 2d Sess.

On March 17, 1930, a point of order was made against a bill in very much the same situation as this bill, that it did not conform to section 2a of Rule XIII. In that case the Speaker pro tempore, who happened to be the gentleman from New York [Mr. Snell], chairman of the Rules Committee, that reports this rule, sustained the point of order. It seems to the Chair clear that the ruling then made was correct and that no other ruling can be made here than to sustain the point of order and send the bill back to the committee for a report in accordance with the rule. The Chair therefore sustains the point of order.

§ 23.11 In earlier practice, the Speaker held that defects by a committee in reporting a bill to the House (sitting without permission while the House was in session and failing to properly vote on reporting the bill) could be remedied by a special order from the Committee on Rules making in order a motion that the House resolve itself into the Committee of the Whole for the consideration of the bill but not specifically waiving points of order.

On Feb. 28, 1933, Mr. William B. Bankhead, of Alabama, called up by direction of the Committee on Rules a special order providing for the consideration of a bill:

> MR. BANKHEAD: Mr. Speaker, I call up a privileged resolution from the Committee on Rules.
>
> The Clerk read the House resolution as follows:
>
> HOUSE RESOLUTION 397
>
> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 5122, "An act to provide for the purchase and sale of cotton under the supervision of the Secretary of Agriculture."
>
> That after general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion, except one motion to recommit.

Speaker John N. Garner, of Texas, overruled a point of order against the resolution and against the bill:(18)

> MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, I make the point of order, first, that this bill, S. 5122, is not properly on the calendar.
>
> In the first place, the committee was in session after the House had been called to order, and they had not special permission to be in session on that day, after the House was in session.

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18. 76 CONG. REC. 5247–49, 72d Cong. 2d Sess.

Furthermore, there was no definite vote taken in the committee reporting out the bill.

In addition, the rule itself is not in proper order, considering the fact that the bill is not properly reported and on the calendar at the present time.

If the Chair will look at Cannon's book of procedure, the Chair will find that this is a regular rule taking up and giving privilege to a bill that is properly on the House Calendar. Had the Committee on Rules desired to take this bill away from the committee and discharge the committee, it should have brought in a different form of rule than is before us at the present time.

Mr. Speaker, I make the point of order that the bill was not properly reported, because the committee was sitting at a time when it had no right to sit; and, furthermore, the bill not being on the calendar at the present time in accordance with the rules and the precedents of the House, the rule itself is not in proper order. . . .

The Speaker: . . . With respect to the point that the committee has not properly reported the bill, the Chair does not think it necessary to go back of the rule to determine what is the condition of the bill. The Rules Committee undoubtedly has authority to bring in a rule providing for the consideration of a bill that has never even been referred to a committee; or if it has been referred to the committee, not reported; or if reported, improperly reported.

As to the form of the rule, the resolution says:

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 5122, "An act to provide for the purchase and sale of cotton under the supervision of the Secretary of Agriculture."

Then the resolution goes on and lays down the conditions under which the bill shall be considered.

It occurs to the Chair that this form of resolution undoubtedly gives the House the right and the power to consider S. 5122, under the limitations laid down in the resolution. So if the House adopted the resolution, it would make in order the consideration of the bill which is the object of the rule.

The third problem is one that the Chair can not rule upon until the Chair knows the facts, and the Chair would have to make inquiry of the individual member of the Rules Committee whether or not it was properly reported. So far as appears on the face of the resolution, it has been reported by the Rules Committee, but if, indeed, and in fact, it is shown that it was not reported by the Rules Committee, then the Chair would consider that fact in reaching a decision.

Mr. Snell: Mr. Speaker, may I make a suggestion right here?

Mr. Bankhead: Mr. Speaker, in order that we may clarify the issue now pending, does the gentleman from New York challenge the fact that the Rules Committee had a regular meeting for the consideration of this resolution and reported it out in the regular way?

Mr. Snell: No, I do not; but I claim that the resolution reported here is not in the form to do what the gentleman is contending here he has the right to do. I maintain that the bill itself was not properly on the House Calendar and under the precedents prepared by Mr. Cannon himself there is shown one kind of rule for a bill on the House Calendar and another kind of rule for a bill that is not properly reported and on the House Calendar.

The Speaker: The Chair does not understand that the philosophy of that rule could possibly be that the Rules Committee is limited as to the provisions of a rule that suspends all other rules of the House of Representatives. All rules to the contrary, when this resolution is adopted, if it is adopted by the House, it takes the place of all other rules of the House of Representatives inconsistent with its purpose.

Mr. Snell: The Speaker does not entirely get my point. I claim if they wanted to suspend the rules of the House and consider a bill not properly reported by the committee, they should have drafted a rule in different form from the one now before us.

The Speaker: Let us see what the rule says.

Mr. Snell: I know what the rule says.

The Speaker: It says:

> Upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union.

For what? For the consideration of S. 5122.

Mr. Snell: I am not arguing that point with the Chair. I am simply making the point of order that the bill is not properly on the House Calendar, and when a bill is not properly on the House Calendar this rule does not apply to it.

The Speaker: Suppose there was not any calendar at all?

Mr. Snell: Then you would have to draft a different kind of rule from the one you have now.

Mr. [Thomas L.] Blanton [of Texas]: Suppose it was in Phil Campbell's hip pocket?

Mr. Snell: That does not make any difference, and has nothing to do with the point under discussion.

The Speaker: The Chair overrules the point of order.

Parliamentarian's Note: For contemporary practice, see §§ 23.9, 23.10, supra.

§ 23.12 A point of order that a committee in reporting a bill has not complied with the provisions of Rule XIII clause 3 (the Ramseyer rule) will not lie during consideration of a special rule providing for the consideration of such bill and waiving all points of order against the bill.

On Mar. 11, 1933, there was pending before the House a resolution from the Committee on Rules, providing for the consideration of a bill and providing that "all points of order against said bill shall be considered as waived" (H. Res. 32). Speaker Henry T. Rainey, of Illinois, ruled that under the provisions on the special order, a point of order against consideration of the bill for defects in the committee report could not be raised:(19)

Mr. [John E.] Rankin [of Mississippi]: Mr. Speaker, I make the point of order that the bill is not in order at this time for the reason that the report does not comply with the Ramseyer rule, with which the gentleman from Tennessee [Mr. Byrns] is entirely familiar. The bill changes existing law and the report does not set out the existing law as provided in the Ramseyer rule and therefore I make the point of order that it is not in order at this time.

Mr. [Joseph W.] Byrns [of Tennessee]: The point of order would be against the bill and not against the resolution.

Mr. Rankin: It is against consideration of the bill.

Mr. Byrns: That would come later.

Mr. Rankin: No; you shut me off from all points of order with the passage of this resolution.

The Speaker: The point of order is overruled.

The question is on ordering the previous question.

The previous question was ordered.

The Speaker: The question is on agreeing to the resolution.

Mr. Rankin: Mr. Speaker, may I be permitted to make my point of order against the bill now or shall I make it when the bill is read? I do not want to waive my right to make the point.

The Speaker: The gentleman can make the point when the bill is called up.

The resolution was agreed to.

Parliamentarian's Note: As with other waivers against defects in accompanying reports, waivers should be against consideration of a bill for failure to comply with the Ramseyer rule, rather than against the bill itself.

§ 23.13 The House rejected a resolution reported from the Committee on Rules, providing for the consideration of a bill improperly reported (failure of a quorum to order the bill reported).

On July 23, 1973,(20) the House rejected House Resolution 495, called up by Mr. Claude D. Pepper, of Florida, by direction of the Committee on Rules and providing for the consideration of H.R. 8929 (to amend title 39, on the reduced mailing rate for certain matter). The resolution specifically waived Rule XI clause 27(e) [now Rule XI clause 2(l)(2)(A) in the 1979 *House Rules and Manual*] in relation to the bill; that clause provided that a quorum must actually be present when a bill is ordered reported by a committee, a requirement that was

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19. 77 Cong. Rec. 198, 73d Cong. 1st Sess.

20. 119 Cong. Rec. 25482, 93d Cong. 1st Sess.

not followed by the Committee on Post Office and Civil Service, in the reporting of the bill in question.

Waiving All Points of Order Against Certain Amendments

§ 23.14 Form of resolution providing for the consideration of a bill and making in order, any rule of the House to the contrary notwithstanding, a certain type of amendment.

The following resolution was under consideration on Dec. 5, 1945:[1]

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4649) to enable the United States to further participate in the work of the United Nations Relief and Rehabilitation Administration. That after general debate, which shall be confined to the bill and continue not to exceed 1 day, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider, any rule of the House to the contrary notwithstanding, an amendment prohibiting the use of funds involved in the bill (H.R. 4649) in countries that refuse free access to examination of United Nations Relief and Rehabilitation Administration operations by representatives of the United States press and radio. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 23.15 Where a special rule provided that amendments relating to a certain subject matter could be offered as substitutes for the pending bill, notwithstanding any rules of the House to the contrary, the Chairman of the Committee of the Whole explained the parliamentary situation.

On Mar. 19, 1935, the House adopted House Resolution 165, reported from the Committee on Rules and providing for the consideration of a bill for the payment of world war adjusted service certificates:

> *Resolved,* That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 3896, "a bill to provide for the

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[1] H. Res. 444, 91 Cong. Rec. 11477, 79th Cong. 1st Sess.

immediate payment of World War adjusted-service certificates, to extend the time for filing applications for benefits under the World War Adjusted Compensation Act, and for other purposes"; and all points of order against said bill are hereby waived; that after general debate, which shall be confined to the bill and continue not to exceed 10 hours, to be evenly divided and controlled by the chairman and ranking minority members of the Committee on Ways and Means, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider as substitute amendments for the bill any such amendments that relate to the payment of World War adjusted-service certificates, and such substitute amendments shall be in order, any rule of the House to the contrary notwithstanding. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except two motions to recommit, with or without instructions: *Provided, however*, That if the instructions in such motions relate to the payment of World War adjusted-service certificates, they shall be in order, any rule of the House to the contrary notwithstanding.(2)

On Mar. 21, 1935, the bill was being considered pursuant to the special order in Committee of the Whole and all time for general debate had expired. Chairman Clarence Cannon, of Missouri, made a statement regarding the procedure under which the bill would be considered for amendment:(3)

The Chairman: The time of the gentleman from Kentucky [Mr. Vinson] has expired. All time has expired. The Chair will briefly recapitulate the parliamentary situation.

This is an unusual rule—but a very adequate one. The Chairman of the Committee on Rules and his committee are to be congratulated on the admirable manner in which they have met a difficult situation.

Under the special order, all amendments pertaining to the payment of the adjusted-service certificates are in order, the rules of the House to the contrary notwithstanding. At a time when it is the vogue to term all special rules "gag rules", here is a special order which liberalizes instead of restricts, the rules of the House. As Chairman O'Connor well says, it is the antithesis of a gag rule.

Under the clause waiving the restrictions of the rules of the House against any proposition to pay adjusted-service certificates, it permits consideration of the Patman bill, the Cochran bill, the McReynolds bill, the Andrew bill, and similar measures which otherwise could not be considered because not germane. Accordingly, after conference with the Speaker, the Chairman of the Committee on Rules, the majority leader, and the authors of the several bills, the Chair will recognize Members who desire to offer major amendments in the following order:

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(2) 79 Cong. Rec. 3984, 74th Cong. 1st Sess.

(3) *Id.* at p. 4216.

The first section of the pending bill, the Vinson bill, having been read for amendment, the Chair will recognize the gentleman from Texas [Mr. Patman] to offer his bill as a substitute for the Vinson bill. While it will be offered as a substitute, it will be, technically speaking, an amendment. Then the gentleman from Missouri [Mr. Cochran] will be recognized to offer his bill as a substitute for the Patman bill in the pending amendment to the Vinson bill. If the gentleman from Tennessee [Mr. McReynolds] desires, he will then be recognized to offer his bill as an amendment to the Cochran bill or, if he prefers to await a vote on the Cochran substitute and the Cochran substitute is disposed of adversely, he may then offer his bill as a substitute for the Patman bill in the amendment to the Vinson bill. We may have pending at the same time an amendment, an amendment to the amendment, a substitute for the amendment, and an amendment to the substitute. All four forms of amendment may be pending simultaneously. That is the limit, as any further proposal would be an amendment in the third degree.

Under the rules of the House, an amendment is perfected before it is voted on. Any substitute is then perfected; and then, both the amendment and the substitute for the amendment having been perfected, the Committee takes its choice of the two. It should also be borne in mind that the Committee, having chosen one of the two, and having adopted either the amendment or the substitute for the amendment, it is then too late to offer further perfecting amendments.

If the various bills are offered in the order indicated, the Vinson bill comprises the text of the bill; the Patman bill is the amendment to the text; the Cochran bill is the substitute for the amendment to the text; and any further bill proposed is an amendment to the substitute.

The question will come first on perfecting amendments to the Patman bill; second, on perfecting amendments to the Cochran bill. The two bills having been perfected, the Committee will then vote on substituting the Cochran bill—or the Cochran bill, as amended—for the Patman bill. The question will then recur on adopting the prevailing bill as an amendment to the Vinson bill.

§ 23.16 Where a bill is being considered under the provisions of a resolution which specifies that committee amendments shall be in order "any rule of the House to the contrary notwithstanding," the issue of germaneness cannot be raised against a committee amendment.

On Mar. 8, 1960,[4] the House adopted House Resolution 468, providing for the consideration of H.R. 5 and waiving points of order against certain amendments:

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[4] 106 CONG. REC. 4956, 86th Cong. 2d Sess.

> . . . It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on Ways and Means now in the bill and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. No other amendment to the bill or committee substitute shall be in order except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but such amendments shall not be subject to amendment. . . .

While the bill was being considered on May 18, 1960,(5) Chairman William H. Natcher, of Kentucky, stated in response to an inquiry that a point of order of germaneness could not be raised against such a committee amendment:

> Mr. [Hale] Boggs [of Louisiana] (during the reading of the amendment): Mr. Chairman, I ask unanimous consent to dispense with the further reading of the amendment.
>
> The Chairman: Is there objection to the request of the gentleman from Louisiana?
>
> Mr. [H. R.] Gross [of Iowa]: Mr. Chairman, reserving the right to object, I would like to address a parliamentary inquiry to the Chairman. Would the amendment offered by the gentleman from Louisiana be subject to a point of order?
>
> The Chairman: The Chair desires to inform the gentleman from Iowa that under the resolution which we are considering this bill, House Resolution 468, committee amendments shall be in order, any rule of the House to the contrary notwithstanding.
>
> Mr. Gross: Mr. Chairman, I withdraw my reservation of objection.
>
> The Chairman: Is there objection to the request of the gentleman from Louisiana?
>
> There was no objection.

§ 23.17 Where a resolution under which a bill is being considered makes in order, without the intervention of any point of order, a specified amendment, the amendment may be offered as a new title, and the amendment need not be germane to the title which it supplants or to the title which it follows.

On Feb. 10, 1964,(6) the Committee of the Whole was considering H.R. 7152, the Civil Rights Act of 1963, where the special order (H. Res. 616) adopted by the House made in 1963, without the intervention of any point of order, the text of another bill, to provide an

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5. *Id.* at p. 10575.

6. 110 Cong. Rec. 2738–40, 88th Cong. 2d Sess.

"Operation Bootstrap" for the American Indian. Chairman Eugene J. Keogh, of New York, overruled a point of order against the amendment when it was offered as a new title VIII of the bill (the bill already contained a title VIII):

> MR. [EMANUEL] CELLER [of New York] (interrupting reading of the bill): Mr. Chairman, enough has been read of the amendment to indicate that it is subject to a point of order, and I make the point of order that we have not completed the reading of the bill, therefore this is not the proper place to consider the amendment.
>
> THE CHAIRMAN: The Chair reminds the gentleman from New York that the amendment offered by the gentleman from South Dakota has been made in order by the resolution under which this bill is being considered. The gentleman is offering the amendment at this time, and the Chair would be impelled to hold that the amendment is in order.
>
> MR. CELLER: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. CELLER: Mr. Chairman, would it be in order to offer this amendment to title VII, or must there be a new title read?
>
> THE CHAIRMAN: The gentleman from South Dakota is offering his amendment as a new title VIII to the bill.

Waiving Points of Order Against Nongermane Amendments

§ 23.18 Form of resolution waiving points of order against a committee amendment in the nature of a substitute on the grounds of germaneness (Rule XVI clause 7).

The following resolution was under consideration on Oct. 13, 1970:(7)

> H. RES. 1251
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> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 17849) to provide financial assistance for and establishment of improved rail passenger service in the United States, to provide for the upgrading of rail roadbed and the modernization of rail passenger equipment, to encourage the development of new modes of high speed ground transportation, to authorize the prescribing of minimum standards for railroad passenger service, to amend section 13(a) of the Interstate Commerce Act, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clause 3, Rule XIII are hereby waived. After general debate, which shall continue not to exceed three hours, two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for

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7. 116 CONG. REC. 36592, 91st Cong. 2d Sess. See Rule XVI clause 7, *House Rules and Manual* § 794 (1979).

amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order, under clause 7, Rule XVI, the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and said committee substitute shall be read by titles instead of by sections. At the conclusion of the consideration of title VIII of the amendment in the nature of a substitute for amendment, title IX of said substitute shall be considered as having been read for amendment. No amendments shall be in order to title IX of said substitute except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

§ 23.19 In ruling on the germaneness of an amendment, the Chair considers the purpose of the amendment with relation to the bill under consideration, and is not bound by the fact that the Committee on Rules, in reporting the resolution providing for the consideration of the bill, specifically waived points of order against the consideration of a similar amendment.

On Mar. 15, 1960,(8) Mr. Howard W. Smith, of Virginia, made a point of order, on the grounds of germaneness, against an amendment offered by Mr. William M. McCulloch, of Ohio, to H.R. 8601, to enforce constitutional rights and for other purposes. In argument on the point of order, Mr. Smith argued, in support of his contention that the amendment was not germane, that the Committee on Rules had reported a resolution for the consideration of the bill which resolution waived points of order against a specified amendment containing similar language (H. Res. 359). Mr. Emanuel Celler, of New York, and Mr. Charles A. Halleck, of Indiana, argued that the action of the Committee on Rules in resolving any doubts about the nongermaneness of an amendment by waiving points of order should not indicate whether the amendment

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8. 106 Cong. Rec. 5655–57, 86th Cong. 2d Sess.

was in fact germane. Chairman Francis E. Walter, of Pennsylvania, ruled as follows:

> The Chair is ready to rule.
>
> It is quite true that the rule, House Resolution 359, under which H.R. 8601 is being considered, contains the language that the gentleman from Virginia mentioned a moment ago, concerning putting in order H.R. 10035 in order to eliminate any question of germaneness of that particular proposal.
>
> The Chair dislikes to substitute the judgment of the Chair for that of the distinguished Committee on Rules, but, frankly, the Chair does not believe that including this language necessarily binds the present occupant of the chair.
>
> It is quite true that the measure, H.R. 8601, deals with Federal election records, and the Chair is quite certain that the membership agrees with the Chair that the scope is rather narrow. However, the Chair feels that the amendment offered by the gentleman from Ohio has to do with the basic purpose of title 3 of the bill H.R. 8601.
>
> The Chair overrules the point of order.

§ 23.20 Where a resolution providing for the consideration of a bill makes in order (notwithstanding the rule of germaneness) the text of a specific bill as an amendment, points of order are considered as waived only against the complete text of the proposed bill and not against portions thereof; and if parts of the text are offered as independent amendments they must meet the test of germaneness under Rule XVI clause 7.

On Dec. 10, 1969, the House had under consideration a special order called up by direction of the Committee on Rules by Mr. Ray J. Madden, of Indiana; the resolution made in order as an amendment to the bill the text of another bill, and waived points of order against the consideration of such amendment:(9)

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee of the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider, without the intervention of any point of order, the text of the bill H.R. 12695 as an amendment to the bill. At the conclusion of the consideration of H.R. 4249 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question

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9. H. Res. 714, 115 Cong. Rec. 38123, 91st Cong. 1st Sess.

shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Speaker pro tempore Carl Albert, of Oklahoma, answered a parliamentary inquiry on whether portions of the bill made in order as an amendment could be offered to the bill:(10)

MR. [CLARK] MACGREGOR [of Minnesota]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MACGREGOR: Mr. Speaker, under the resolution (H. Res. 714), if adopted, should the bill, H.R. 12695, be considered and rejected, would it then be in order, following rejection of H.R. 12695, should that occur, to offer a portion or portions of H.R. 12695 as amendments to H.R. 4249?

THE SPEAKER PRO TEMPORE: The Chair will state that would be in order subject to the rule of germaneness, if germane to the bill H.R. 4249.

MR. MACGREGOR: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MACGREGOR: Mr. Speaker, should a portion of H.R. 12695 be offered under the conditions set forth in my previous inquiry and should it not be germane, a motion to that effect, to rule it out of order, would be then in order and be sustained, I gather?

THE SPEAKER PRO TEMPORE: That, of course, would be a matter for the Chairman of the Committee of the Whole to consider when it is before him.

MR. MACGREGOR: Mr. Speaker, I have one additional parliamentary inquiry. Under House Resolution 714, if adopted, would it be in order to include in the motion to recommit a portion or portions of H.R. 12695 which might otherwise be subject to a point of order on the point of germaneness?

THE SPEAKER PRO TEMPORE: The Chair would not want to pass upon that hypothetically. At the time the occasion arises the Chair would pass upon it.

§ 23.21 The issue of germaneness cannot be raised against an amendment when all points of order against it have been waived.

On Feb. 10, 1964, the Committee of the Whole was considering for amendment H.R. 7152, the Civil Rights Act of 1963, pursuant to the provisions of House Resolution 616, a special order providing for the consideration of the bill, providing that the committee amendment in the nature of a substitute thereto be read as an original bill for amendment, and providing that "it shall also be in order to consider, without the intervention of any point of order, the text of the bill H.R. 980, 88th Congress, as an amendment

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10. *Id.* at p. 38130.

to the said committee substitute amendment." When title VII of the committee amendment in the nature of a substitute was pending, Mr. Ellis Y. Berry, of South Dakota, offered an amendment adding a new title VIII, consisting of the text of the bill H.R. 980 (which dealt with equal employment opportunity for Indians through industrial development); his amendment was related to the subject matter of neither title VII nor title VIII of the committee amendment in the nature of a substitute. Chairman Eugene J. Keogh, of New York, overruled a point of order against the consideration of the amendment, since all points of order had been waived against its consideration and it was not required to be germane to either title VII or title VIII of the committee amendment:[11]

Mr. [Emanuel] Celler [of New York] (interrupting reading of the bill): Mr. Chairman, enough has been read of the amendment to indicate that it is subject to a point of order, and I make the point of order that we have not completed the reading of the bill, therefore this is not the proper place to consider the amendment.

The Chairman: The Chair reminds the gentleman from New York that the amendment offered by the gentleman from South Dakota has been made in order by the resolution under which this bill is being considered. The gentleman is offering the amendment at this time, and the Chair would be impelled to hold that the amendment is in order.

§ 23.22 The House rejected the previous question on a resolution reported from the Committee on Rules making the text of a bill in order as an amendment in the nature of a substitute, and then adopted an amendment substituting another bill whose text would be in order as an amendment in the nature of a substitute. The amendment to the resolution also struck out provisions in the resolution waiving points of order against nongermane committee amendments.

On Apr. 16, 1973, Mr. Richard Bolling, of Missouri, called up by direction of the Committee on Rules the following resolution:[12]

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6168) to amend and extend the Economic Stabilization Act of 1970. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. Immediately after the reading of the first section of H.R. 6168 under the five-minute rule, it shall be in order to consider without the intervention of any point of order the text of H.R. 6879 as an amendment in the nature of a substitute for the bill. If said amendment in the nature of a substitute is not agreed to in Committee of the Whole, it shall then be in order to consider the amendments recommended by the Committee on Banking and Currency now printed in the bill notwithstanding the provisions of clause 7, rule XVI. At the conclusion of the consideration of H.R. 6168 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 6168, the Committee on Banking and Currency shall be discharged from the further consideration of the bill S. 398, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 6168 as passed by the House.

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[11] 110 Cong. Rec. 2738, 2739, 88th Cong. 2d Sess.

[12] 119 Cong. Rec. 12501, 93d Cong. Cong. 1st Sess.

The House rejected the previous question on the resolution and adopted an amendment offered by the ranking minority member of the Committee on Rules, Mr. David T. Martin, of Nebraska: (13)

Mr. Martin of Nebraska: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Martin of Nebraska: On page 2, line 1, strike "H.R. 6879," and insert in lieu thereof, "H.R. 2099."
>
> On page 2, lines 2 through 7, strike the words: "If said amendment in the nature of a substitute is not agreed to in Committee of the Whole, it shall then be in order to consider the amendments recommended by the Committee on Banking and Currency now printed in the bill notwithstanding the provisions of clause 7, rule XVI."

Mr. Martin of Nebraska: Mr. Speaker, I would like to explain this amendment to the Members. The amendment makes in order the consideration of the committee bill, H.R. 6168. Then it makes in order the offering of H.R. 2099 as a substitute. This strikes out the Stephens bill and substitutes H.R. 2099, which is a bill which was jointly introduced by the chairman of the Banking and Currency Committee and the ranking minority member, and provides for a simple 12 months' extension of the Economic Stabilization Act.

Then in addition it strikes from the original resolution (H. Res. 357) the waiving of points of order in regard to germaneness. In other words, those are stricken from the resolution. That is all this amendment does.

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13. *Id.* at p. 12509.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. Bolling).

Mr. Bolling: Mr. Speaker, I thank the gentleman from Nebraska for yielding, but I see no purpose in debating the matter further. I thank the gentleman again.

Mr. Martin of Nebraska: Mr. Speaker, I urge adoption of the amendment, and I move the previous question on the amendment and on the resolution.

The previous question was ordered.

The Speaker:[14] The question is on the amendment offered by the gentleman from Nebraska (Mr. Martin).

The amendment was agreed to.

The Speaker: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Parliamentarian's Note: As indicated in notes to §§ 18.22 and 18.30, supra, an amendment to a special order reported from the Committee on Rules, to make in order the consideration of an amendment or of another bill unrelated to the measure made in order by the special order, may not be germane.

Amending Nongermane Amendments Permitted to Remain by Special Order

§ 23.23 Where a special rule providing for consideration of a bill permits the committee reporting the bill to offer nongermane amendments, such amendments when offered are subject to amendments germane to the committee amendment.

On Sept. 3, 1940, the House was considering a special order (H. Res. 586) from the Committee on Rules providing for consideration of a bill and waiving points of order against committee amendments as follows:

> . . . It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on Military Affairs now in the bill, and such substitutes for the purpose of amendment shall be considered under the 5-minute rule as an original bill. It shall also be in order to consider without the intervention of any point of order any amendment offered by the direction of the Committee on Military Affairs to the bill or committee substitute.

Speaker pro tempore Jere Cooper, of Tennessee, answered a parliamentary inquiry on amendments which could be offered to such committee amendments:

Mr. [Malcolm C.] Tarver [of Georgia]: Mr. Speaker, the question which I am trying to have clarified is this: It has been stated by Members that the Committee on Military Affairs, as authorized to do under the language of the pending rule, will offer substitute language for what is commonly known as the Russell-Overton amendment adopted in the Senate. No Member of the House could offer a substitute, because it would not be relevant to the bill, and under the rule an amendment not relevant to the bill could not be offered by anyone except the Committee on Military Affairs. Assuming that the Committee on Military Affairs does offer such amendment, may Members of the House then offer amendments to the committee amendment or substitutes for the committee amendment which are relevant to the committee amendment but which would not be relevant to the bill without the committee amendment?

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[14] Carl Albert (Okla.).

Mr. [Sam] Rayburn [of Texas]: Mr. Speaker——

The Speaker Pro Tempore: The gentleman from Texas.

Mr. Rayburn: Mr. Speaker, the gentleman from Georgia [Mr. Tarver] and, earlier in the day, the gentleman from Mississippi [Mr. Colmer], both of whom are interested in this subject, raised the same point that the gentleman from Georgia now raises. Since that time I have consulted with the Speaker and the Parliamentarian, and I have made some investigation of the rules and precedents of the House. Under the amendment that the committee will offer in reference to this matter of drafting industry, it is my opinion, and the opinion of those with whom I have consulted, that relevant amendments to that would be in order. It is my opinion that the Chairman of the Committee of the Whole would in all probability so hold.

Mr. Tarver: I thank the gentleman from Texas, but I wonder if that opinion of the gentleman from Texas may be confirmed by the Chair?

Mr. Rayburn: Mr. Speaker, of course, I cannot assure the gentleman from Georgia what the Chairman of the Committee of the Whole House on the state of the Union will do, but I think the Chairman of the Committee of the Whole House on the state of the Union will in all probability consult with the same people I have and will in all probability arrive at the same conclusion.

The Speaker Pro Tempore: In answer to the parliamentary inquiry of the gentleman from Georgia [Mr. Tarver] the Chair may say that while he does not feel it would be proper to undertake to make a decision now which would bind the Chairman of the Committee of the Whole House on the state of the Union when such question is presented, the present occupant of the chair is of the opinion that amendments offered by authority of the Committee on Military Affairs would be subject to germane amendments offered by Members of the House.

Mr. [Lyle H.] Boren [of Oklahoma]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Boren: I may put it in the form of a question. I want to know if the statement the Chair has just made would apply to an amendment which might be offered in the form of a substitute to the committee amendment?

The Speaker Pro Tempore: A substitute is an amendment. The present occupant of the chair does not feel compelled to further amplify or to further express an opinion on these questions that may properly be raised in the Committee of the Whole and which will be passed upon by the Chairman of that Committee.(15)

§ 23.24 Where the House has adopted a resolution waiving points of order against committee amendments, no immunity is granted to Members to offer amendments to the bill which are not germane.

On June 17, 1948,(16) the Committee of the Whole was considering for amendment H.R. 6401 (the Selective Service Act of 1948) pursuant to House Resolution 671, providing for consideration of the bill and waiving points of order against committee amendments reported by the Committee on Armed Services. Mr. James W. Wadsworth, Jr., of New York, made a point of order against an amendment offered by Mr. Leon H. Gavin, of Pennsylvania, to the bill, on the grounds it was not germane to the bill (the amendment proposed acceptance of aliens for enlistment and amended the naturalization laws). Mr. Gavin argued in support of his amendment that a similar amendment had been allowed in the Senate to a similar bill. Chairman Francis H. Case, of South Dakota, ruled as follows:

> The gentleman from Pennsylvania has suggested that in view of the fact a similar amendment was adopted in another body it should be permitted here. The Chair calls attention to the fact that the House of Representatives has a rule on germaneness which does not apply to a certain other body. The amendment offered by the gentleman from Pennsylvania includes a proviso which affects the naturalization laws by establishing a new basis for eligibility to citizenship. A bill proposing to amend the naturalization laws would be beyond the jurisdiction of the Committee on the Armed Services. Under the rule which has been adopted no immunity was granted to Members to offer amendments which are not germane; consequently, the Chair is constrained to sustain the point of order.

The Chairman delivered a similar ruling on the same bill on the same day:(17)

> The Chair is ready to rule.
>
> The gentleman from New York [Mr. Andrews] has made the point of order that the amendment offered by the gentleman from Kansas [Mr. Rees] is not germane to the bill. Several of the

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15. 86 Cong. Rec. 11358, 11360, 76th Cong. 3d Sess.
16. 94 Cong. Rec. 8670, 80th Cong. 2d Sess.
17. *Id.* at p. 8686.

Members who have spoken have called attention to other provisions in the bill. The Chair must remind the Committee that the provisions in the bill as reported by the committee were made in order by a special rule adopted by the House of Representatives. There may be provisions in the bill which would not be germane if offered as an amendment by individual Members, but are in order in the bill because they were made in order by the rule adopted by the House.

So every amendment offered must stand on its own bottom as to whether or not it is germane.

The Chair invites attention to the fact that the amendment includes such language as "It shall be unlawful to maintain certain institutions," and further on says, "Any person, corporation, partnership, or association violating any of the provisions of this subsection shall be deemed guilty of a misdemeanor" and so forth. In that respect it seems to the Chair that the amendment goes beyond the provisions of the bill, imposing penalties and sanctions on persons outside the armed forces.

Waiving Points of Order Against Appropriation Bills Generally

§ 23.25 Form of resolution waiving points of order against the consideration of a general appropriation bill (where the report has not been available for three calendar days as specified in Rule XXI clause 6).

The following resolution was under consideration on Dec. 9, 1969:(18)

> *Resolved,* That upon the adoption of this resolution, notwithstanding any rule of the House to the contrary, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15149) making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1970, and for other purposes, and all points of order against said bill are hereby waived.

§ 23.26 A resolution reported from the Committee on Rules waiving points of order against any provision in an appropriation bill in violation of Rule XXI clause 2, was amended to restrict the waiver to appropriations in the bill not authorized by law, where the Committee on Rules had intended to recommend a waiver of points of order against unauthorized items but not against legislative language in the bill.

On July 21, 1970, Mr. John A. Young, of Texas, of the Commit-

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18. H. Res. 742, 115 Cong. Rec. 37948, 91st Cong. 1st Sess.

Rule XXI clause 6 has been renumbered and is now Rule XXI clause 7, *House Rules and Manual* (1979).

tee on Rules called up a resolution waiving points of order during the consideration of an appropriation bill, and indicated his intention to offer an amendment to the resolution:⁽¹⁹⁾

MR. YOUNG: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1151 and ask for its immediate consideration.

The Clerk read the resolution as follows.

H. RES. 1151

Resolved, That during the consideration of the bill (H.R. 18515) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1971, and for other purposes, all points of order against said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived.

MR. YOUNG: Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. Smith), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1151 is a resolution waiving points of order against certain provisions of H.R. 18515, the Departments of Labor, Health, Education, and Welfare and related agencies appropriation bill for fiscal year 1971.

Legislative authorization for several activities, for which funds are included in H.R. 18515, expired at the end of fiscal year 1970. These are all activities currently in progress; funds for all are carried in the budget; legislation to extend them all is in the legislative process. The activities involved are listed on page 42 of the report on the bill.

Because the authorizations have not been enacted, points of order are waived against the bill for failure to comply with the first provision of clause 2, rule XXI. By mistake, the second provision was covered by the rule—so I have an amendment at the desk to correct the resolution.

Now, Mr. Speaker, as stated there is a clerical error in the rule and at the proper time I shall send to the desk a committee amendment to correct the clerical error. . . .

Mr. Speaker, I offer a committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Young: Strike out lines 5 through 7 of the resolution and insert in lieu thereof the following: "purposes, all points of order against appropriations carried in the bill which are not yet authorized by law are hereby waived."

The amendment was agreed to.

The House adopted the amendment offered by Mr. Young.⁽²⁰⁾

§ 23.27 On an occasion where the Committee on Rules failed to grant a rule waiving points of order against provisions in an appropriation bill, a member of the Committee on Appropriations made points of order against

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19. 116 CONG. REC. 25240, 91st Cong. 2d Sess.

20. *Id.* at p. 25241.

practically every paragraph of the bill as it was read for amendment, in order to show the House what could occur if points of order are not waived in such cases.

On July 14, 1955, the House resolved itself into the Committee of the Whole for the consideration of H.R. 7278, making supplemental appropriations (Chairman Wilbur D. Mills, of Arkansas, presiding). Mr. Louis C. Rabaut, of Michigan, a member of the Committee on Appropriations, made the following remarks in relation to the bill and its susceptibility to points of order:(1)

> MR. RABAUT: Mr. Chairman, with malice toward nobody but with determination to do my duty as I see it, I want to report to this House that yesterday I appeared before the Committee on Rules, as was the request of the full Committee on Appropriations. I told the Committee on Rules that this bill was filled with paragraphs that were subject to points of order; that the bill probably contained very few pages where a ruling could be denied against points of order, and the bill would be bad. I said there were so few pages that I limited it to about four pages that would not be subject to a point of order.
>
> I read to the committee a prepared statement and said the bill contained many of the paragraphs that were in the final supplemental bill as handled by the Committee on Appropriations every year, and that a rule is usually granted.
>
> The gentleman from New York [Mr. Taber], the gentleman from California [Mr. Phillips], and the gentleman from Wisconsin [Mr. Davis], were present and opposed a rule. Mr. Davis lent his moral support.
>
> Past history always allowed a rule. . . .
>
> Rather than to have a field day on points of order I intend to ask unanimous consent to ask for deletion from the bill of all the paragraphs subject to a point of order so the House may work its will on that part of the bill on which the decision of the Rules Committee permits us to function. This will represent a big saving in time and much useless talk.

Mr. Rabaut's request (to strike from the bill the portions thereof subject to points of order on the ground that they were unauthorized by law or constituted legislation) was objected to. When the bill was read for amendment, Mr. Rabaut made points of order against such portions of the bill; many of the points of order were conceded by the Chairman of the Committee on Appropriations and sustained by the Chair.(2)

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(1) 101 CONG. REC. 10572, 10573, 84th Cong. 1st Sess.

(2) For the proceedings wherein such points of order were made, see 101 CONG. REC. 10604–06, 10610, 10611,

§ 23.28 On one occasion, the Chairman and members of the Committee on Armed Services first opposed the adoption of a rule waiving points of order against the Defense Department appropriation bill, then agreed to support the rule after the Chairman of the Committee on Appropriations announced that the appropriation bill would not be called up pending final conference action on the authorization measure.

On July 26, 1968, Mr. William M. Colmer, of Mississippi, called up by direction of the Committee on Rules and explained the purposes of a special order waiving points of order against the provisions of H.R. 18707, making appropriations for the Department of Defense:[3]

Mr. Colmer: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1273 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1273

Resolved, That during the consideration of the bill (H.R. 18707) making appropriations for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes, all points of order against said bill are hereby waived.

Mr. Colmer: Mr. Speaker, I yield the usual 30 minutes to the minority, the distinguished gentleman from Ohio [Mr. Latta], and pending that, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a rather simple resolution, but it does encompass a rather controversial matter in that it waives points of order.

Mr. Speaker, this resolution simply makes in order the consideration of the appropriation bill for the Department of Defense for fiscal year 1969. Of course, as the membership is aware, the Appropriations Committee reports and bills are privileged. They do not require ordinarily a rule to bring them to the floor. But in this case a rule was requested and granted simply because the authorizing legislation which ordinarily precedes the reporting and consideration of an appropriation bill has not been finally enacted.

The matter is now in conference, and the Committee on Appropriations, I understand, with the concurrence of the leadership, came to the Committee on Rules and requested a rule waiving points of order.

The Chairman of the Committee on Armed Services, L. Mendel Rivers, of South Carolina, along

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10613-17, 10621, 10623-25, 84th Cong. 1st Sess.

For a statement by Mr. Clarence Cannon, of Missouri, Chairman of the Committee on Appropriations, on the necessity of resolutions from the Committee on Rules waiving points of order against appropriation bills, see 91 Cong. Rec. 2571, 2672, 79th Cong. 1st Sess., Mar. 23, 1945.

[3] 114 Cong. Rec. 23622, 90th Cong. 2d Sess.

with other members of that committee, opposed the special order under consideration:[4]

> . . . We are now tied up in a conference with the other body. Indeed, we have already acted on two procurement sections for which this bill makes money available.
>
> Now I do not think the great Committee on Appropriations—since the objective of adjourning at the end of August is not to be attained and since time is not of the essence—will really be saving any time. Nobody knows when we will get away from here now. We are not going to finish this month. I doubt that we will finish next month.
>
> So, we are not going to finish this week. And we are not going to finish next week. This appropriations bill will not even be considered by the other body until sometime in September. I am hopeful that the great chairman, with whom I have never had a disagreement and with whom I have cooperated to the extent of forgoing our committee jurisdiction on supplementals bills for Southeast Asia, will not insist on this bill now. It is a bad precedent. I do not want to have a misunderstanding now.
>
> I think the sound and considerate thing to do is to consider the jurisdiction of a committee which has broken its neck to cooperate with the great Committee on Appropriations. I do not want to get into any controversy with them, but this bill could end up as the authorization for the appropriation and, as the gentleman from New York has said, the appropriation would really repeal the jurisdiction of our committee.

Mr. Rivers then withdrew his opposition to the resolution when George H. Mahon, of Texas, Chairman of the Committee on Appropriations, announced his intention to refrain from calling up the appropriation bill until the conference report on the authorizing provisions was agreed to:[5]

> MR. MAHON: Mr. Speaker, this discussion has been altogether unanticipated. We have always worked together with the Armed Services Committee, and we have undertaken to do so in this instance. The imminent consideration of this bill has been well known to the Members of the House, and the House leadership on both sides of the aisle for many days. In view of the discussion which has taken place and in order to resolve the problem I have just conferred on the floor here with the gentleman from Mississippi [Mr. Colmer], the chairman of the Committee on Rules, and the gentleman from South Carolina [Mr. Rivers], the chairman of the Armed Services Committee, and it occurs to me that our purposes might best be served if we agree to the rule and agree not to take the bill up for consideration in the House until after the conference report on the authorizing bill has passed both Houses.

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[4] *Id.* at p. 23623.

[5] *Id.* at p. 23627.

This would seem to be agreeable to all concerned. . . .

Mr. Rivers: Mr. Speaker, of course, there has been cooperation. This is perfectly satisfactory. All we want is the opportunity to work out our conference with the other body. Then the legislative will and the regular procedure will be accomplished. I think this will be a good solution. I do not want to do anything to any committee. I have had fine relations with both committees.

Mr. Mahon: Mr. Speaker, the gentleman from South Carolina and the gentleman from Texas agree that upon the adoption of the rule, the bill will not be called up in the House by the Committee on Appropriations until the conference report on the authorization bill has been adopted by both bodies.

Mr. Rivers: Mr. Speaker, that is agreeable to me.

§ 23.29 A resolution waiving points of order against a certain provision in a general appropriation bill was considered and agreed to by the House after the general debate on the bill had been concluded and reading for amendment had begun in Committee of the Whole.

On May 21, 1969, general debate had been concluded in Committee of the Whole on H.R. 11400, the supplemental appropriations bill, and the first section of the bill had been read for amendment when the Committee rose.

The House then adopted a special order from the Committee on Rules which waived points of order against one section of the bill:

Mr. [William M.] Colmer [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 414 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 414

Resolved, That during the consideration of the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes, all points of order against title IV of said bill are hereby waived.

Mr. Colmer: Mr. Speaker, I yield the customary 30 minutes to the minority, to the very able and distinguished gentleman from California (Mr. Smith). Pending that I yield myself such time as I may consume.

Mr. Speaker, I shall not use all the time on this resolution. This is a rather unusual situation that we find ourselves in, parliamentarily speaking. We have debated the supplemental appropriation bill at some length under the privileged status of the Appropriations Committee. Now we come in with a resolution from the Rules Committee for one purpose and one purpose alone; that is, to waive points of order against a particular section of the bill.(6)

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6. 115 Cong. Rec. 13246–51, 91st Cong. 1st Sess.

Waiver Against Appropriation Bill Does Not Apply to Floor Amendments

§ 23.30 Where the House had adopted a resolution providing that "during the consideration of" a general appropriation bill "the provisions of clause 2, Rule XXI are hereby waived," the Chair relied on the legislative history to rule that the waiver extended only to provisions in the bill and not to amendments offered from the floor.

On June 22, 1973, the Committee of the Whole had under consideration H.R. 8825, making appropriations for Housing and Urban Development and independent agencies. Mr. Robert O. Tiernan, of Rhode Island, offered an amendment, to which Mr. Edward P. Boland, of Massachusetts, raised a point of order on the grounds that the amendment constituted legislation on an appropriation bill. Mr. Robert N. Giaimo, of Connecticut, argued that the point of order had no merit because the House had earlier adopted a special order waiving points of order:(7)

The Chairman:(8) Does the gentleman from Connecticut desire to be heard on the point of order?

Mr. Giaimo: I do, Mr. Chairman.

If the amendment offered by the gentleman from Rhode Island is not admissible, it is because of the fact that it violates these rules, rule XXI, clause 2, which prohibits legislation on an appropriation bill.

It seems to me, however, that if we read the rule of the committee, House Resolution 453, which made in order this legislation before us in this appropriation bill, the resolution which this House passed says:

H. Res. 453

> *Resolved,* That during the consideration of the bill (H.R. 8825) making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for the fiscal year ending June 30, 1974, and for other purposes, the provisions of clause 2, Rule XXI are hereby waived.

That means on the face of it that the Committee on Rules waived the prohibition of the Holman rule, and rule XXI, clause 2, making in order taking up matters which otherwise would be prohibited.

Of course, it has been stated here on the floor today earlier that the reason why the committee had to go to the Committee on Rules for a waiver of points of order was because of the fact that there was some legislation that we are appropriating for in this bill which was, in fact, not as yet authorized by law. If that is so, I suggest that the Committee on Rules should have

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7. 119 Cong. Rec. 20982, 20983, 93d Cong. 1st Sess.
8. James G. O'Hara (Mich.).

worded their language a little differently, but they did not. They said the provisions of clause 2, rule XXI, are hereby waived. If we are going to go by the written wording of the resolution and interpret what in fact the chairman had in mind when the gentleman asked for the waiver of rule XXI, that puts many of we Members of Congress in a very difficult position because of the time that the resolution was up for adoption we would have had the right to vote down the previous question against the resolution of the Committee on Rules and try to make in order what the gentleman from Rhode Island is trying to do now. We did not do that, and one of the reasons why, undoubtedly is because Members of the Congress had the right to rely on the written wording which was before us, and the written wording clearly says that the provisions of clause 2, rule XXI are hereby waived.

I submit, Mr. Chairman, since that is the situation before us we should not go beyond the written wording of the waiver of the provisions of rule XXI, but in fact it should be instead that rule XXI is in fact waived in all its respects and in all of its aspects, and the amendments offered by the gentleman from Rhode Island (Mr. Tiernan) should be made in order.

Chairman O'Hara ruled that the legislative history of the special order clearly indicated that the waiver of points of order was intended to apply only to provisions in the bill and not to amendments offered from the floor:(9)

The Chairman: The Chair is prepared to rule.

The Chair feels that it will be necessary first to speak on the contention raised by the gentleman from Rhode Island (Mr. Tiernan) and amplified upon by the gentleman from Connecticut (Mr. Giaimo) with respect to the provisions of the resolution under which the bill is being considered, and whether or not the provisions of that resolution have an effect on the point of order made by the gentleman from Massachusetts (Mr. Boland).

The gentleman from Connecticut (Mr. Giaimo) is correct in asserting that if the amendment offered by the gentleman from Rhode Island (Mr. Tiernan) is out of order at all it is out of order because of the second sentence of clause 2 of rule XXI, which contains the provisions that "nor shall any provision in any such bill or amendment thereto changing existing law be in order," and so forth, setting forth exceptions. But the gentleman from Connecticut (Mr. Giaimo) contends, and the gentleman from Rhode Island (Mr. Tiernan) concurs, that the resolution providing for the consideration of the bill waives the provisions of that rule. The Chair has again read the rule. It says:

> *Resolved*, That during the consideration of the bill (H.R. 8825) making appropriations for the Department of Housing and Urban

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9. 119 Cong. Rec. 20983, 93d Cong. 1st Sess.

Development . . . the provisions of clause 2, rule XXI are hereby waived.

It does not say that points of order are waived only with respect to matters contained in the bill. It says "During the consideration of the bill" the provisions of clause 2 of rule XXI are waived.

The Chair was troubled by that language and has examined the statements made by the members of the Committee on Rules who presented the rule to see if their statements in any way amplified or explained or limited that language. The Chair has found that both the gentleman from Louisiana (Mr. Long) and the gentleman from Ohio (Mr. Latta) in their explanations of the resolution did, indeed, indicate that it was their intention, and the intention of the committee, that the waiver should apply only to matters contained in the bill and that it was not a blanket waiver.

Therefore whatever ambiguity there may have been in the rule as reported, the Chair is going to hold, was cured by the remarks and legislative history made during the presentation of the rule, which were not disputed in any way by the gentleman from Connecticut or anyone else. However, the Chair, recognizes that it is a rather imprecise way of achieving that result and would hope that in the future such resolutions would be more precise in their application.

§ 23.31 A resolution adopted by the House waiving points of order against legislation contained in a general appropriation bill was held not to apply to amendments offered to that bill from the floor.

On May 10, 1973, Chairman Jack B. Brooks, of Texas, answered a parliamentary inquiry in Committee of the Whole as to the effect of a special order (H. Res. 389) which waived points of order against provisions in a general appropriations bill containing legislation and unauthorized appropriations in violation of Rule XXI clause 2:(10)

MR. [HAROLD R.] COLLIER [of Illinois]: Mr. Chairman, I have a parliamentary inquiry, and I will make a point of order, if it is in order.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. COLLIER: The parliamentary inquiry is this: Did we not waive points of order by earlier action of this House? If we did, how, then, is a point of order in order when points of order have been waived?

THE CHAIRMAN: The rule only waived points of order against provisions of the bill not against amendments offered from the floor to that legislation.

MR. COLLIER: Mr. Chairman, would not the amendment offered by the gentleman from Maryland (Mr. Long), be in and of itself under that waiver, and, therefore, any subsequent point of order

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10. 119 CONG. REC. 15320, 93d Cong. 1st Sess. See Rule XXI clause 2, *House Rules and Manual* § 834 (1979).

on an amendment thereto would be equally out of order?

The Chairman: Any amendment offered on the floor could be subject to a point of order. No Member raised a point of order against the amendment offered by the gentleman from Maryland (Mr. Long). A point of order was raised against an amendment to that amendment. It was sustained. That is the situation existing at this time.

Waiving Points of Order Against Amendments to Appropriation Bill

§ 23.32 Form of resolution waiving points of order against a general appropriation bill and making in order a certain type of amendment containing legislative language.

The following resolution was under consideration on June 17, 1947:[11]

> *Resolved,* That during the consideration of the bill (H.R. 3839) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1948, and for other purposes, all points of order against the bill or any provisions contained therein are hereby waived; and it shall also be in order to consider without the intervention of any point of order any amendment to said bill prohibiting the use of the funds appropriated in such bill or any funds heretofore made available, including contract authorizations, for the purchase of any particular site or for the erection of any particular hospital.

§ 23.33 The House, by resolution, gave the Committee on Appropriations authority to incorporate in, or offer amendments to, any general or special appropriation measure a limitation prohibiting expenditures in the pending or any other act for salary or compensation to certain persons found by them to be subversive, notwithstanding Rule XXI clause 2.

On May 17, 1943, Chairman Wright Patman, of Texas, overruled a point of order against an amendment offered by the Committee on Appropriations to the urgent deficiency appropriation bill. The Chair based his ruling on the language of a resolution from the Committee on Rules (H. Res. 105), previously passed by the House, which had authorized the Committee on Appropriations to undertake certain investigations and which had authorized the committee to include certain limitations, related to such investigations, in appropriation bills:

Mr. [John H.] Kerr [of North Carolina]: Mr. Chairman, by direction of the Committee on Appropriations, I offer the following amendment.

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[11] H. Res. 248, 93 Cong. Rec. 7166, 80th Cong. 1st sess.

The Clerk read as follows:

> Amendment offered by Mr. Kerr: On page 36, after line 23, insert as a new section the following:
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> "Sec. 304. No part of any appropriation, allocation, or fund (1) which is made available under or pursuant to this act, or (2) which is now, or which is hereafter made available under or pursuant to any other act, to any department, agency, or instrumentality of the United States, shall be used to pay any part of the salary, or other compensation for the personal services, of Goodwin B. Watson, William E. Dodd, Jr., and Robert Morss Lovett: *Provided*, That this section shall not operate to deprive any such person of payment for leaves of absence or salary, or of any refund or reimbursement, which have accrued prior to the date of the enactment of this act."

Mr. [Vito] Marcantonio [of New York]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state the point of order.

Mr. Marcantonio: I make a point of order against the language in line 3 of the amendment just offered, as follows:

> Which is now, or which is hereafter made, available under or pursuant to any other act, to any department, agency, or instrumentality of the United States—

And so forth. This amendment seeks to limit an appropriation in some other appropriation bill. It goes beyond this bill.

The Chairman: Does the gentleman from Missouri desire to be heard on the point of order?

Mr. [Clarence] Cannon of Missouri: Mr. Chairman, this amendment is made in order by House Resolution 105, authorizing the investigation, providing—as shown on page 2 of the report, House Report No. 448—as follows:

> Any legislation approved by the committee as a result of this resolution may be incorporated in any general or special appropriation measure emanating from such committee or may be offered as a committee amendment to any such measure notwithstanding the provisions of clause 2 of rule XXI.

Under that provision, the amendment is in order.

Mr. Marcantonio: May I say in reply, Mr. Chairman, that would be true if the amendment offered were limited to this appropriation, but the amendment offered extends to appropriations not made by this bill.

The Chairman: The language appears to be rather plain and specific to the Chair, "any legislation approved by the Committee as a result of this resolution may be incorporated in any general or special appropriation measure."

Therefore the point of order is overruled.(12)

Parliamentarian's Note: The full text of House Resolution 105, Feb. 9, 1943, 78th Congress, 1st Session, was as follows:

> *Resolved*, That the Committee on Appropriations, acting through a special subcommittee thereof appointed by the chairman of such committee for the purposes of this resolution, is authorized and directed to examine into

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12. 89 Cong. Rec. 4558, 78th Cong. 1st Sess.

any and all allegations or charges that certain persons in the employ of the several executive departments and other executive agencies are unfit to continue in such employment by reason of their present association or membership or past association or membership in or with organizations whose aims or purposes are or have been subversive to the Government of the United States. Such examination shall be pursued with the view of obtaining all available evidence bearing upon each particular case and reporting to the House the conclusions of the committee with respect to each such case in the light of the factual evidence obtained. The committee, for the purposes of this resolution, shall have the right to report at any time by bill, amendment, or otherwise, its findings and determination. Any legislation approved by the committee as a result of this resolution may be incorporated in any general or special appropriation measure emanating from such committee or may be offered as a committee amendment to any such measure notwithstanding the provisions of clause 2 of rule XXI.

For the purposes of this resolution, such committee or any subcommittee thereof is hereby authorized to sit and act during the present Congress at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses, and the production of such books or papers or documents or vouchers by subpena or otherwise, and to take such testimony and records as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or subcommittee, or by any person designated by him, and shall be served by such person or persons as the chairman of the committee or subcommittee may designate. The chairman of the committee or subcommittee, or any member thereof, may administer oaths to witnesses.

§ 23.34 Where a section in a bill pending before the Committee of the Whole was struck out on a point of order (as constituting an appropriation on a legislative bill), the Committee rose, the House took a recess, and the Committee on Rules met and reported to the House a resolution which the House adopted, making in order an amendment to such bill in Committee of the Whole to reinsert the section which had been stricken out.

On Mar. 29, 1933, the Committee of the Whole was considering S. 598 (reforestation and unemployment relief) pursuant to a unanimous-consent request that the Senate bill be in order for consideration, instead of a similar House bill (H.R. 3905) which had previously been made a special order of business for that day (also by unanimous consent).

Chairman Ralph F. Lozier, of Missouri, sustained a point of order against section 4 of the Senate bill, on the grounds that it constituted an appropriation on a legislative bill in violation of Rule XXI clause 4 [Rule XXI clause 5 in the *House Rules and Manual*, 1979], and section 4 was thus stricken from the bill. Immediately following the Chair's ruling, the Committee rose and a motion for a recess was adopted (at 5:42 p.m.).(13)

The recess having expired at 5:52 p.m., Speaker Henry T. Rainey, of Illinois, called the House to order and Mr. William B. Bankhead, of Alabama, reported and called up by direction of the Committee on Rules (which had met during the recess) a special order making in order an amendment to the Senate bill pending before the Committee of the Whole:(14)

> The recess having expired (at 5 o'clock and 52 minutes p.m.), the House was called to order by the Speaker.
>
> **Mr. Bankhead**: Mr. Speaker, by direction of the Committee on Rules, I report a privileged resolution, which I send to the desk and ask for its immediate consideration.
>
> **Mr. [Joseph B.] Shannon** [of Missouri]: Mr. Speaker, does not the rule have to lie over for a day?
>
> **The Speaker**: It does not.
>
> The Clerk will report the resolution.
>
> The Clerk read as follows:
>
> House Resolution 85
>
> *Resolved*, That upon the adoption of this resolution it shall be in order to offer as an amendment in Committee of the Whole House on the state of the Union to the bill S. 598 the following language:
>
> "Sec. 4. For the purpose of carrying out the provisions of this act, there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary; and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were orginally appropriated."
>
> All points of order against said amendment shall be considered as waived in the House and in the Committee of the Whole House on the state of the Union. . . .
>
> **The Speaker**: It requires a two-thirds vote to consider it. The question is, Shall the House consider the resolution?
>
> The question was taken; and on a division (demanded by Mr. Snell) there were—ayes 189, noes 71.
>
> So (two thirds having voted in favor thereof) the House determined to consider the resolution.
>
> **Mr. Bankhead**: Mr. Speaker, I move the previous question on the adoption of the resolution.
>
> The previous question was ordered.

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13. 77 Cong. Rec. 988–990, 73d Cong. 1st Sess.
14. *Id.* at p. 990.

The Speaker: The question is on agreeing to the resolution.

The resolution was agreed to.

The Committee of the Whole resumed its sitting and proceeded to consider the amendment:(15)

Mr. [Robert] Ramspeck [of Georgia]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 598) for the relief of unemployment through the performance of useful public work, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 598, with Mr. Lozier in the chair.

The Clerk read the title of the bill.

Mr. Ramspeck: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Ramspeck: Page 3, after line 21, insert the following:
>
> "Sec. 4. For the purpose of carrying out the provisions of this act there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary; and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated."

Mr. [John J.] Cochran of Missouri: Mr. Chairman, I offer an amendment to the amendment.

Mr. Ramspeck: Mr. Chairman, this simply puts back in the bill section 4 exactly, which was ruled out on the point of order.

I move that all debate on this section do now close.

Waiving Points of Order Against Unauthorized Appropriations

§ 23.35 Form of resolution waiving points of order against unauthorized items of appropriation in a general appropriation bill (but not against legislative language).

The following resolution was under consideration on May 17, 1972:(16)

> *Resolved*, That during the consideration of the bill (H.R. 14989) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, the provisions of clause 2, rule XXI are hereby waived with respect to any appropriation contained in such bill.

Parliamentarian's Note: This form of resolution protects appropriations not authorized by law carried

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15. *Id.*

16. H. Res. 983, 118 Cong. Rec. 17760, 92d Cong. 2d Sess.

in the bill in violation of Rule XXI clause 2, but does not protect legislation in an appropriation bill, in violation of the same clause. Thus, a paragraph in the bill containing legislation as well as an unauthorized appropriation could be stricken on a point of order, and the unauthorized appropriation could not be reinserted (the special rule protecting provisions in the bill and not amendments). A special rule waiving all points of order under Rule XXI clause 2 protects both legislative language and unauthorized appropriations carried in the bill.

§ 23.36 Where an appropriation bill is considered under a rule waiving points of order against the bill, such rule does not waive points of order against amendments offered from the floor seeking to appropriate funds for purposes not authorized by law.

On June 5, 1942, the Committee of the Whole had under consideration an appropriation bill, where the House had adopted a special order from the Committee on Rules waiving points of order against unauthorized appropriations in the bill (H. Res. 499). Chairman Howard W. Smith, of Virginia, sustained a point of order against an amendment containing an unauthorized appropriation, since the special order did not waive points of order against amendments:(17)

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Keefe: Page 25, after paragraph (2), insert a new paragraph, as follows: "To assist students (in such numbers as the chairman of the War Manpower Commission shall determine) participating in accelerated programs in degree-granting colleges and universities in engineering, physics, chemistry, medicine (including veterinary), dentistry, and pharmacy and such other technical and professional fields as said chairman may determine to be necessary in connection with the national war effort, by providing part-time employment, $5,000,000."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not authorized by law.

THE CHAIRMAN: The gentleman from New York makes a point of order against the amendment offered by the gentleman from Illinois on the ground that it is not authorized by law.

Does the gentleman from New York desire to be heard on the point of order?

MR. TABER: Merely to say, Mr. Chairman, that it is an activity for which there is no authority whatever. It adds $5,000,000 to this bill. That is about the size of it.

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17. 88 CONG. REC. 4959, 77th Cong. 2d Sess.

THE CHAIRMAN: Does the gentleman from Wisconsin desire to be heard on the point of order?

MR. KEEFE: I do not think it is necessary for me to be heard. There is not any part of this appropriation that is authorized by law, and points of order against them were waived, under the rule.

THE CHAIRMAN: Can the gentleman point out any authority in law for this appropriation?

MR. KEEFE: The authority in law is to be found in the Executive order of the President of the United States creating the National Youth Administration, which sets up a student-aid program and which has been carried out under a student-aid program by the N. Y. A. since its inception. This simply adds $5,000,000 to the same student-aid program, $5,000,000 for which is already carried in this bill.

THE CHAIRMAN: The Chair is ready to rule.

In the bill under consideration, which provides an appropriation for the N. Y. A., there is no authority in law setting up the N. Y. A.; and, therefore, in order that this appropriation for that agency might not be thrown out on a point of order it was necessary to have a special rule waiving points of order against that particular appropriation. That rule waived points of order on that clause in the bill.

The gentleman's amendment undertakes to make another appropriation which is to be administered under the Chairman of the Manpower Commission. It is the opinion of the Chair that there is no authority in law for the appropriation proposed in the amendment and the Chair is therefore constrained to sustain the point of order.

On Oct. 18, 1966, Chairman James G. O'Hara, of Michigan, delivered a similar ruling:[18]

The Chair is prepared to rule.

The gentleman from Texas has stated the content of the resolution providing for the consideration of the bill before the Committee of the Whole correctly. The resolution waives points of order against the bill but it does not waive points of order against amendments to the bill.

Inasmuch as there seems to be agreement between the gentleman from Texas and the gentleman from California that the funds contained in the amendment are not authorized by legislation enacted into law, the point of order is sustained.

§ 23.37 Where a special rule in the House waives points of order against portions of an appropriation bill which are unauthorized by law, and the bill passes the House with those provisions included therein and goes to conference, the conferees may report back their agreement to those provisions (or modifications thereof, if amended by the Senate) even though they remain unauthorized, since waiver of points of order under Rule XXI clause 2, carries over to the consideration

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[18] 112 CONG. REC. 27417, 89th Cong. 2d Sess.

of the same or perfected provisions when the conference report is before the House.

On Dec. 20, 1969, Mr. Otto E. Passman, of Louisiana, called up a conference report on H.R. 15149, making appropriations for foreign assistance. Speaker John W. McCormack, of Massachusetts, overruled two points of order against the conference report, since the House had considered the bill originally pursuant to a special order (H. Res. 742) waiving points of order against portions of the bill making appropriations not authorized by law:(1)

> MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I make a point of order against that portion of the conference report which provides funds for the purchase of planes for the Republic of China on the ground that it is an appropriation that is not authorized by law.
>
> I read from the conference report on the authorization bill which appears in the Congressional Record of December 18 on page 39841 relating to the military assistance, section 504 of the act.
>
> The House bill authorized a total of $454,500,000 for military assistance of which $350,000,000 was for worldwide allocation; $50,000,000 for Korea; $54,500,000 for the Republic of China.
>
> The Senate amendment authorized a total of $325,000,000 without any allocation to specified countries.
>
> The managers on the part of the House agreed to the authorization of $350,000,000 without specifying any country allocation. They found it impossible to obtain agreement to a larger total for military assistance and believe that any specific additional allocation for Korea or for the Republic of China would result in a drastic curtailment of the worldwide authorization which would be detrimental to our national security.
>
> So, in the basic law, in the authorization law there is no allocation specifically of funds for any country and I suggest that the appropriation of funds in a specific amount for military assistance to a particular country is without authorization of law.
>
> THE SPEAKER: Does the gentleman from Louisiana (Mr. Passman) desire to be heard on the point of order?
>
> MR. PASSMAN: I do, Mr. Speaker.
>
> Mr. Speaker, first of all there is nothing in the military assistance paragraph directing the purchasing of any type of equipment. There is language appropriating a specific amount of funds for China, but there is no language anywhere in the bill stating the type of military equipment that will be provided to any nation.
>
> Furthermore, the military assistance appropriation language is within the jurisdiction of the conference committee because the language was in the bill as it passed the House.
>
> As a matter of fact, everything in title I is not yet authorized. . . .
>
> MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Speaker, I rise in support

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1. 115 CONG. REC. 40445–48, 91st Cong. 1st Sess.

of the point of order and to express my strong opposition to the conference report on foreign aid appropriations.

This report contains a line item for foreign military assistance of $404.5 million. That amount is $54.5 million more than the amount which the House authorized yesterday by approving the conference report on the foreign aid authorization bill.

For that reason, I believe that this conference report is completely and flagrantly out of order. Let me cite to this body rule XXI, part 2, of the Rules of the House of Representatives. It states:

> No appropriation shall be reported in any general appropriations bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law.

Let me also cite the interpretation which has been given to this rule, an interpretation which may be found in paragraph 835 of the rules:

> In the administration of the rule it is the practice that those upholding the item of appropriation should have the burden of showing the law authorizing it.

I would be pleased to know where the House conferees find anything in the law which would authorize an additional $54.5 million in military assistance.

Mr. Speaker, it is abundantly clear that this conference report stands in violation of the rules of this body.

Let me call to the attention of my colleagues the debate in the other body on Thursday in which the Members of that body only belatedly discovered that the Comptroller General will approve the expenditure of funds from the Treasury which have been appropriated but not authorized by the Congress without previous authorization.

Many of us in this body of the Congress have been aware of that situation for some time.

It is, nonetheless, a violation of both the spirit and the letter of the Rules of the House for the Appropriations Committee to appropriate funds which have not been authorized—just as it is a violation for authorizing committees to attempt to appropriate funds.

If the Appropriations Committee can appropriate funds in complete disregard of what has been authorized—as it does in the conference report now before us—then why have authorizing committees?

Those of us who serve on authorizing committees might just as well stay home. The hours and days we spend in committee hearings and markup sessions are simply an exercise, when our actions can be honored, ignored, or abrogated at the whim of an Appropriations subcommittee.

Mr. Speaker, the issue before the House today goes beyond the $54.5 million which exceeds the authorization for military assistance. It goes beyond the issue of whether the United States should be providing a down payment on jet planes for the Republic of China.

Mr. Speaker, I therefore urge that this conference report be defeated in order that the appropriation conference conform to the authority approved yesterday by the House.

Mr. Passman: Mr. Speaker, may I be heard further on the point of order?

Mr. Speaker, it is my understanding that the lateness of the so-called authorization bill, which does not exist in fact, as yet, and the very fact that the majority leader of the other body said there would be no authorization bill, and the chairman of the Foreign Relations Committee said there would be no authorization bill, made it necessary for us to move this bill through the Appropriations Committee, the Rules Committee, and the Rules Committee gave us a rule waiving points of order. We have moved the bill, as I understand it, according to the rules of the House, and this appropriation bill became an authorization bill also, in the absence of any authorization act. Even at this late hour we still do not have an authorization bill because the conference report on the authorization bill was only adopted yesterday by both Houses and has not yet reached the President for his signature. . . .

Mr. Zablocki: Mr. Speaker, does the rule waiving points of order under which the House appropriation bill was considered by the Committee of the Whole House on the State of the Union continue through conference report consideration? Would not the rule apply only for consideration of the appropriation bill waiving points of order during the time it was considered by the Committee of the Whole? Certainly the rule should not carry over to the conference report? If it does the Members of the House abrogate their legislative prerogatives. If this is the case, the gentleman from Wisconsin for one shall never vote for a rule waiving points of order in the future.

It has been cited that the appropriation bill came to this House under a rule waiving points of order and therefore this conference report would be in order. The gentleman from Louisiana claims this appropriation conference report carries its own authorization under the rule waiving points of order granted in earlier consideration.

My parliamentary inquiry, Mr. Speaker, is: Does the rule under which the appropriation bill came to the House carry over and continue into the conference report?

The Speaker: The Chair will state that will have a bearing on the point of order that is raised at the present time. . . .

The gentleman from Illinois has raised a point of order against the conference report on the bill H.R. 15149.

The Chair is aware of the fact pointed out by the gentleman from Illinois—that the authorization bill for fiscal 1970, while passed by both Houses, has not yet become law. As pointed out in the debate on this point of order, the conference report now before the House does carry an amount for military assistance that is $54,500,000 above the figure which would be authorized by H.R. 14580, the Foreign Assistance Act of 1969.

However, the Chair recalls that when this appropriation bill passed the House, it was considered under a rule waiving points of order. The House agreed to a total figure for military assistance of $454,500,000. The Senate reduced this figure to $350 million. The conferees have reached an agreement between these two amounts, as they had the authority to do.

The Chair holds that the conferees have not exceeded their authority and overrules the point of order.

The gentleman from Louisiana is recognized for 1 hour.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, a parliamentary inquiry.

The Speaker: Does the gentleman from Louisiana yield for a parliamentary inquiry?

Mr. Passman: Mr. Speaker, I yield for a parliamentary inquiry.

Mr. Gross: Mr. Speaker, I desire to make a point of order against consideration of the bill.

Mr. Passman: Mr. Speaker, I yielded to the gentleman for a parliamentary inquiry, not for a motion.

Mr. Gross: Mr. Speaker, I made a point of order against consideration of the conference report in toto.

The Speaker: The gentleman will state his point of order.

Mr. Gross: Mr. Speaker, I make a point of order against consideration of the conference report on the basis that none of the appropriations contained in the bill H.R. 15149 have been authorized by law.

Mr. Passman: May I be heard on that, Mr. Speaker?

The Speaker: Of course, the Chair will hear the gentleman.

Mr. Passman: It is my understanding that the Chair just ruled on that specific point a moment ago. I ask for a ruling, Mr. Speaker.

The Speaker: The Chair will state that it overrules the point of order made by the gentleman from Iowa (Mr. Gross), on the ground that the special rule waived points of order against the provisions of the House bill.

Parliamentarian's Note: The only restriction against inclusion of an unauthorized appropriation or of legislation in a conference report on a general appropriation bill is contained in clause 2, Rule XX, which prohibits conferees on the part of the House from agreeing to a Senate amendment which would have violated clause 2, Rule XXI if it had originated in the House, unless the House by a separate vote authorizes the conferees to agree to such a Senate amendment. The conferees may, however, agree to a Senate amendment which modifies a provision in the House bill, and that modification if offered in the House would have been in order as a germane perfection to legislation or unauthorized appropriations permitted to remain in the House bill by a special rule waiving points of order. For example, an unauthorized appropriation appearing in a House general appropriation bill, but protected by a waiver of points of order, may be amended by increasing or decreasing the amount of the unauthorized sum, since that type of amendment adds no further unauthorized appropriations. A Senate amendment of the same character may be agreed to by the House conferees without violating the provisions of clause 2, Rule XX. If the

Senate amendment added another unauthorized appropriation, or legislative language, it would be subject to the restriction contained in that clause.

If a conference report contains language not adopted by either House (whether or not constituting legislation or unauthorized appropriations on a general appropriation bill), the report would violate an entirely different provision of the House rules, prohibiting the inclusion by House conferees of matter not committed to conference (clause 3, Rule XXVIII).

Waiving Points of Order Against Legislation in Appropriation Bill

§ 23.38 Form of resolution waiving points of order against legislative language in an appropriation bill and providing that during the remainder of the session no amendment shall be in order to any other general appropriation bill which conflicts with the provisions of the language made in order by the special rule.

The following resolution was under consideration on Jan. 11, 1934:[2]

Resolved, That during the consideration of H.R. 6663, a bill making appropriations for the Executive Office and sundry independent bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1935, and for other purposes, all points of order against title II or any provisions contained therein are hereby waived; and no amendments or motions to strike out shall be in order to such title except amendments or motions to strike out offered by direction of the Committee on Appropriations, and said amendments or motions shall be in order, any rule of the House to the contrary notwithstanding. Amendments shall not be in order to any other section of the bill H.R. 6663 or to any section of any general appropriation bill of the Seventy-third Congress which would be in conflict with the provisions of title II of the bill H.R. 6663 as reported to the House, except amendments offered by direction of the Committee on Appropriations, and said amendments shall be in order, any rule of the House to the contrary notwithstanding.

Parliamentarian's Note: Title II of the bill, entitled "Economy Provisions," was entirely legislative in nature, amending a number of statutes relative to the salaries of public officials, pensions, and other allowances.

§ 23.39 Form of resolution waiving points of order against one section of an appropriation bill which

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[2] H. Res. 217, 78 Cong. Rec. 479, 73d Cong. 2d Sess.

contained legislative provisions in violation of Rule XXI clause 2.

The following resolution was under consideration on May 27, 1969:(3)

Resolved, That during the consideration of the bill (H.R. 11582) making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1970, and for other purposes, all points of order against section 502 of said bill are hereby waived.

§ 23.40 Form of resolution waiving all points of order against consideration of a general appropriation bill not reported for three days, and further waiving points of order against the bill (except one section thereof containing legislation).

The following resolution was under consideration on Sept. 13, 1972:(4)

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 6 of rule XXI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16593) making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes, and all points of order against said bill except against section 743 are hereby waived.

§ 23.41 A resolution adopted by the House waiving points of order against legislation contained in a general appropriation bill does not apply to amendments offered to that bill, or to amendments thereto, from the floor; and amendments adding further legislation to that permitted to remain in the bill by the special rule, or amendments adding further legislation to pending amendments, are subject to a point of order under clause 2, Rule XXI.

On May 10, 1973,(5) the Committee of the Whole was considering for amendment H.R. 7447 (supplemental appropriations for fiscal year 1973), where the House had adopted a special order (House Resolution 389) waiving points of order against said bill containing legislation and unauthorized appropriations in violation of clause 2, Rule XXI, and reappropriations in violation of clause 5 (now clause 6), Rule XXI. Mr. Clarence D. Long,

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3. H. Res. 424, 115 Cong. Rec. 14055, 91st Cong. 1st Sess. Rule XXI clause 2, *House Rules and Manual* § 834 (1979).

4. H. Res. 1114, 118 Cong. Rec. 30524, 92d Cong. 2d Sess.

5. 119 Cong. Rec. 15318–20, 93d Cong. 1st Sess.

of Maryland, offered the following amendment:

Amendment offered by Mr. Long of Maryland: on page 6, immediately after line 12, insert the following paragraph:

"None of the funds herein appropriated to the Department of Defense under this Act shall be expended to support directly or indirectly combat activities in, over or from off the shores of Cambodia by United States Forces."

Mr. Samuel S. Stratton, of New York, then offered an amendment to the amendment offered by Mr. Long, and Chairman Jack B. Brooks, of Texas, ruled that the amendment offered by Mr. Stratton was legislation and out of order:

Amendment offered by Mr. Stratton to the amendment offered by Mr. Long of Maryland: At the end of the amendment, strike out the period, insert a semicolon, and add the following words:

"Except that no such limitation shall take effect until after the projected meeting between Dr. Kissinger and Le Duc Tho looking toward improved cease-fire compliance has been held and a full report on its results made to the Congress; or if such a meeting is not held, until the President has reported fully to the Congress the reasons therefore; but in no event shall such delay continue for more than 3 months".

The Chairman: The Chair is prepared to rule.

The amendment offered by the gentleman from Maryland is a limitation on expenditures. The amendment to the amendment offered by the gentleman from New York is a time limitation, but it is also legislation, in that it would require additional responsibilities and duties. It would require individuals to report, and finally the President to report. It would be legislation.

Therefore, the Chair sustains the point of order.

Chairman Brooks subsequently responded to a parliamentary inquiry on the effect of a special rule, waiving points of order against a general appropriation bill, on amendments offered to that bill or to amendments thereto:

Mr. [Harold R.] Collier [of Illinois]: Mr. Chairman, I have a parliamentary inquiry, and I will make a point of order, if it is in order.

The Chairman: The gentleman will state his parliamentary inquiry.

Mr. Collier: The parliamentary inquiry is this: Did we not waive points of order by earlier action of this House? If we did, how, then, is a point of order in order when points of order have been waived?

The Chairman: The rule only waived points of order against provisions of the bill not against amendments offered from the floor to that legislation.

Mr. Collier: Mr. Chairman, would not the amendment offered by the gentleman from Maryland (Mr. Long), be in and of itself under that waiver, and, therefore, any subsequent point of order on an amendment thereto would be equally out of order?

THE CHAIRMAN: Any amendment offered on the floor could be subject to a point of order. No Member raised a point of order against the amendment offered by the gentleman from Maryland (Mr. Long). A point of order was raised against an amendment to that amendment. It was sustained. That is the situation existing at this time.

§ 23.42 Where the House is considering a general appropriation bill under a resolution waiving all points of order against the bill, a paragraph enacting the provisions of several House-passed resolutions as permanent law, though concededly legislative in character, is not subject to a point of order.

On Dec. 10, 1970,(6) Chairman Claude D. Pepper, of Florida, overruled a point of order against a provision in a supplemental appropriation bill, where the House had adopted a special order (H. Res. 1303) providing that during the consideration of the bill all points of order against said bill were waived:

> THE CHAIRMAN: The Clerk will read.
>
> The Clerk read as follows:
>
> ADMINISTRATIVE PROVISIONS
>
> The provisions of House Resolutions 1270 and 1276, relating to certain official allowances; House Resolution 1241, relating to compensation of the clerks to the Official Reporters of Debates; and House Resolution 1264, relating to the limitation on the number of employees who may be paid from clerk hire allowances, all of the Ninety-first Congress, shall be the permanent law with respect thereto.
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I rise to make a point of order against the language beginning on line 23 of page 12 and running through line 4 of page 13 as being legislation on an appropriation bill and not a retrenchment.
>
> MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, the gentleman's point of order would be appropriate except, of course, for the fact that we do have a rule waiving points of order against the bill.
>
> THE CHAIRMAN: The Chair is prepared to rule. Does the gentleman from Iowa care to be heard further?
>
> MR. GROSS: No, sir.
>
> THE CHAIRMAN: Under the resolution the House adopted, points of order against the bill are waived. The point of order is not sustained.

Amending Legislation Permitted to Remain in Appropriation Bill by Special Order

§ 23.43 A proposition in an appropriation bill proposing to change existing law but permitted to remain by special order may be perfected by germane amendments, provided they do not add legislation.

On Aug. 20, 1951, the Committee of the Whole was considering an

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6. 116 CONG. REC. 40941, 91st Cong. 2d Sess.

appropriation bill, where the House had adopted a special order (H. Res. 394) from the Committee on Rules waiving points of order against the bill (including unauthorized appropriations and legislative language). Pending was a section of the bill, containing legislation, to authorize the Secretary of the Army to direct the preparation of planning reports for public works projects. Chairman Edward J. Hart, of New Jersey, sustained a point of order against an amendment adding further legislation to that contained in the bill (by giving such authority to the Secretary of the Interior as well):(7)

Mr. [Gerald R.] Ford [of Michigan]: Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

> Amendment offered by Mr. Ford: Page 42, line 6, strike out the word "is" and insert "and the Secretary of the Interior are."
>
> Page 42, line 7, after the word "engineers" insert the following "and the Commissioner of Reclamation."
>
> Page 42, line 13, after the word "Army" insert the following, "and the Secretary of the Interior."
>
> Page 43, line 23, after the word "engineers" insert the following "and the Commissioner of Reclamation."
>
> Page 44, line 1, strike out the word "him" and insert the word "them."
>
> Page 44, line 3, strike out the word "is" and insert "and the Commissioner of Reclamation are."

Mr. [John J.] Dempsey [of New Mexico]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Dempsey: The amendment is not germane to this section, and in addition to that, it is purely legislation on an appropriation bill.

The Chairman: Does the gentleman from Michigan desire to address himself to the point of order?

Mr. Ford: Mr. Chairman, in reply to the point of order made by the gentleman from New Mexico, I would like to say first that under the rule adopted at the time this legislation came to the floor all points of order were waived. Secondly, I think that the amendment is germane because it does apply to engineering and construction of Federal projects, and section 1313 in itself applies to engineering and construction of Federal projects.

Mr. Dempsey: Mr. Chairman, the Committee on Rules, waived points of order to the bill, but they certainly cannot waive points of order to an amendment which might be offered, which the gentleman is proposing to do.

The Chairman: The Chair is ready to rule.

With respect to the question of waiving all points of order, that runs only to the provisions of the bill and not to amendments offered to the bill. A proposition in an appropriation bill proposing to change existing law but permitted to remain, may be perfected by germane amendments, provided they

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7. 97 Cong. Rec. 10408, 82d Cong. 1st Sess.

do not add further legislation. The Chair is of the opinion that this amendment does add further legislation, and, therefore, sustains the point of order.

§ 23.44 A proposition in a general appropriation bill proposing a change in existing law, which was made in order by a special rule, may not be amended by inserting additional legislation even though such additional legislation be germane.

On June 21, 1935, the Committee of the Whole had under consideration the second deficiency appropriation bill. The House had adopted a special order (H. Res. 266) waiving all points of order against said bill during its consideration. Chairman Franklin W. Hancock, Jr., of North Carolina, ruled out of order an amendment offered to the bill because, although germane to the bill, it added additional legislation to that contained in the bill:(8)

MR. [DONALD H.] MCLEAN [of New Jersey]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McLean: On page 48, line 16, after the figures "1936", insert the following:

"All moneys of the Corporation of whatsoever nature hereafter received by or for the Corporation shall be immediately and without diminution deposited and covered into the Treasury of the United States, and such portion thereof as is authorized by the Tennessee Valley Authority Act of 1933, as amended, or other law, to be used by said Corporation in carrying out the provisions of said act, as amended, shall be transferred to an appropriate appropriation account, withdrawable only on warrant as are other appropriated public moneys, and subject to authority specifically granted by the Tennessee Valley Authority Act of 1933, and as amended, all laws regulating the obligating or expenditure of other public moneys shall be applicable thereto: *Provided*, That the provisions of section 3709, Revised Statutes, shall be applicable to purchases of supplies and equipment necessary for dam construction. Accounts of all transactions involving receipts or disbursements of the Corporation shall be duly rendered to the General Accounting Office at such times and in such substance and form as may be prescribed by the Comptroller General of the United States, and said accounts and such claims as may arise shall be settled and adjusted by the General Accounting Office under and pursuant to the provisions of title III of the Budget and Accounting Act approved June 10, 1921: *Provided*, That the expenses of such portion of the audit as the Comptroller General may authorize to be done in the field shall be paid from moneys advanced therefor by the Corporation, or from any appropriation or appropriations for the General Accounting Office, and appropriations so used shall be reimbursed promptly by the Corporation as billed by the Comptroller General. In such connection the Comptroller General and his representatives shall have free and open access to all papers, books, records,

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8. 79 CONG. REC. 9853, 9854, 74th Cong. 1st Sess.

files, accounts, plants, warehouses, offices. and all other things, property, and places belonging to, under the control of, or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with the balances in depositaries. The officers of the Corporation to whom moneys may be advanced on accountable warrant shall each give a bond to the United States for the faithful discharge of the duties of his office according to law in such amount as shall be directed by the Comptroller General. Should there be any administrative delinquency in the rendering of the accounts as directed, or any unsatisfactory condition of the accounts, requisitions for funds shall be disapproved by the Comptroller General unless, for good cause shown, he shall elect to withhold such disapproval."

MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill and changes existing law. . . .

MR. [JOHN] TABER [of New York]: This amendment is not only a limitation upon the funds carried in this bill which are in effect reappropriated, but it is also germane to the language of the bill covering the full appropriations that have been made for this purpose into one fund. It is, also, a direction as to how and in what manner the funds shall be accounted for.

By the rule under which we are proceeding in the consideration of this bill, anything germane to the language of the bill is made in order, and I believe the gentleman's amendment in its entirety is in order. . . .

THE CHAIRMAN: The Chair is of the opinion that the point of order is well taken. The Chair bases this conclusion upon a ruling handed down by the gentleman from Connecticut [Mr. Tilson], while presiding over a Committee of the Whole. At that time and in a similar case it was held that although the amendment then offered was germane it contained additional legislation beyond the jurisdiction of the Committee on Appropriations.

The Chair believes that this amendment is germane but that it proposes additional legislation which is a subject matter ordinarily coming within the jurisdiction of the Committee on Military Affairs.

The point of order is sustained.

§ 23.45 A legislative provision in a general appropriation bill, not subject to a point of order under Rule XXI clause 2 because the House has adopted a resolution waiving points of order against that portion of the bill, may be perfected by germane amendment.

On May 21, 1969, Chairman Chet Holifield, of California, overruled a point of order against an amendment to a supplemental appropriation bill, where the House had adopted a special order (H. Res. 414) waiving all points of order against title IV of said bill and where the amendment was offered to title IV of the bill:(9)

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9. 115 CONG. REC. 13270, 13271, 91st Cong. 1st Sess.

TITLE IV

LIMITATION ON FISCAL YEAR 1970 BUDGET OUTLAYS

Sec. 401. (a) Expenditures and net lending (budget outlays) of the Federal Government during the fiscal year ending June 30, 1970, shall not exceed $192,900,000,000: *Provided*, That whenever action, or inaction, by the Congress on requests for appropriations and other budgetary proposals varies from the President's recommendations thereon, the Director of the Bureau of the Budget shall report to the President and to the Congress his estimate of the effect of such action or inaction on expenditures and net lending, and the limitation set forth herein shall be correspondingly adjusted.

(b) The Director of the Bureau of the Budget shall report periodically to the President and to the Congress on the operation of this section. The first such report shall be made at the end of the first month which begins after the date of approval of this Act: subsequent reports shall be made at the end of each calendar month during the first session of the Ninety-first Congress, and at the end of each calendar quarter thereafter. . . .

MR. [JEFFERY] COHELAN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Cohelan of California: On page 62, line 3, add the following as a new section:
>
> "(c) The limitation set forth in subsection (a), as adjusted in accordance with the proviso to that subsection, shall be increased by an amount equal to the aggregate amount by which expenditures and net lending (budget outlays) for the fiscal year 1970 on account of items designated as "Open-ended programs and fixed costs" in the table appearing on page 16 of the Budget for the fiscal year 1970 may be in excess of the aggregate expenditures and net lending (budget outlays) estimated for those items in the April review of the 1970 budget."

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment in that it is legislation on an appropriation bill.

Mr. Chairman, the rule pertaining to title IV only protects what is in the bill, not amendments to the bill. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined title IV. This is a new subparagraph to title IV. Title IV is legislation in a general appropriation bill, and all points of order have been waived in title IV, as a result of it being legislation. Therefore the Chair holds that the amendment is germane to the provisions contained in title IV and overrules the point of order.

§ 23.46 A legislative provision in a general appropriation bill, not subject to a point of order under Rule XXI clause 2 because the House had adopted a resolution waiving points of order against the bill, may be perfected by germane amendment; but such amendment may not add additional legislation. Thus to a provision in the foreign aid appropriation bill, prohibiting assistance under the Foreign Assistance Act of 1961 to

any nation which sells to North Vietnam, an amendment broadening this prohibition to foreclose aid under any act, was held to be additional legislation and not in order.

On Nov. 17, 1967, Chairman Charles M. Price, of Illinois, sustained a point of order against an amendment offered to the foreign aid appropriation bill, where the House had adopted a special order (H. Res. 978) waiving all points of order against the bill during its consideration, but where the amendment, offered by Mr. H. R. Gross, of Iowa, sought to attach additional legislation to the bill:(10)

The Clerk read as follows:

> Sec. 116. No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended, to any country that sells, furnishes, or permits any ships under its registry to carry to North Vietnam any of the items mentioned in subsection 107(a) of this Act.

Mr. Gross: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Gross: On page 13, strike all of lines 4 through 8, and insert the following:
>
> "Sec. 116. No loans, credits, guaranties, or grants or other assistance shall be furnished under this or any other Act, including the Foreign Assistance Act of 1961, as amended, to any country which sells or furnishes to North Vietnam, or which permits ships or aircraft under its registry to transport to or from North Vietnam, any equipment, materials, or commodities, so long as North Vietnam is governed by a Communist regime.
>
> "Notwithstanding section 640 of the Foreign Assistance Act of 1961, as amended, no defense articles or defense services shall be acquired from, or provided to, any such country by any means under this or any other Act. Nothing in this or any other Act shall be construed to authorize the President to waive these provisions.". . .

Mr. [Otto E.] Passman [of Louisiana]: Mr. Chairman, I insist upon my point of order.

The Chairman: The gentleman from Louisiana will state his point of order.

Mr. Passman: Mr. Chairman, this amendment goes further than the provision in the bill, and refers to funds provided in this or any other act presently on the statute books.

The Chairman: Does the gentleman from Iowa desire to be heard on the point of order?

Mr. Gross: Very briefly, Mr. Chairman.

The Chairman: The Chair will hear the gentleman.

Mr. Gross: Mr. Chairman, on yesterday the present Chairman of the Committee of the Whole House on the State of the Union ruled as follows:

> The section of the bill to which the amendment is offered is legislation which has been permitted to remain by waiver of points of order.

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10. 113 Cong. Rec. 32966, 32967, 90th Cong. 1st Sess. For the ruling referred to by Mr. Gross in his remarks on the point of order, see 113 Cong. Rec. 32887, 90th Cong. 1st Sess.

> Such legislative provisions can be perfected by germane amendments.

The Chair then ruled:

> The Chair is of the opinion that the amendment of the gentleman from Missouri is germane and therefore overrules the point of order.

I would say to the Chairman, this is an amendment providing a limitation to a provision of this bill which has been made in order by a rule waiving points of order.

The Chairman: The Chair is prepared to rule.

The gentleman from Iowa correctly states the ruling of the Chair on yesterday. That ruling indicated that the Chair held in order an amendment which was ruled to be a perfecting amendment to a paragraph in the bill that was conceded to be legislation on an appropriation bill but on which points of order had been waived in a rule adopted by the House.

The Chair holds that the amendment offered by the gentleman from Iowa is additional legislation on this bill not covered by the points of order that were waived.

The Chair holds that the amendment adds additional legislation on an appropriation bill; and therefore sustains the point of order.

§ 23.47 A legislative provision in a general appropriation bill, not subject to a point of order under Rule XXI clause 2, because the House had adopted a resolution waiving points of order against the bill, may be perfected by germane amendment.

On Nov. 16, 1967, Chairman Charles M. Price, of Illinois, overruled a point of order against an amendment offered to the foreign aid appropriation bill, where the House had adopted a special order (H. Res. 978) waiving all points of order against the bill during its consideration:[11]

The Clerk read as follows:

> International organizations and programs: For expenses authorized by section 302(a), $125,000,000: *Provided*, That the President shall seek to assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961, as amended, shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime: *Provided further*, That no part of this appropriation shall be used to initiate any project, activity, or program which has not been justified to the Congress.

Mr. [Paul C.] Jones of Missouri: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Jones of Missouri: On page 3, line 5, delete the words "That the President shall seek to assure that"; and further, on line 10, after the word "regime" add a comma and the words "or to any country which has severed diplomatic relations with the United States.". . .

Mr. [Donald M.] Fraser [of Minnesota]: Mr. Chairman, I make the point of order that the amendment is not in order.

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[11] 113 Cong. Rec. 32886, 32887, 90th Cong. 1st Sess.

If I may speak on it briefly?

THE CHAIRMAN: The gentleman may be heard on his point of order.

MR. FRASER: Mr. Chairman, this amendment does not serve just to perfect a legislative provision that might be protected by the rule adopted earlier, but it seeks to expand into a whole new area not contemplated in the present legislative provision and purports to deal with countries with which we have broken diplomatic relations. We would be adding a whole new section since the amendment is not limited to funds appropriated under this Act. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman offered an amendment to line 5 which would strike out the words "that the President shall seek to assure that" and on line 10 strike out the colon and insert a comma after the word "regime" and after the comma add the words "or to any country which has severed diplomatic relations with the United States."

The section of the bill to which the amendment is offered is legislation which has been permitted to remain by waiver of points of order. Such legislative provisions can be perfected by germane amendments.

The Chair is of the opinion that the amendment of the gentleman from Missouri is germane and therefore overrules the point of order.

Waiving Points of Order Against Appropriation in a Legislative Bill

§ 23.48 The Committee on Rules may report a resolution waiving points of order against provisions in a bill in violation of Rule XXI clause 4, and it is not in order to make such points of order when the resolution and not the bill is before the House.

On Aug. 1, 1939,(12) there was pending before the House, House Resolution 286 reported from the Committee on Rules providing for the consideration of a bill reported from the Committee on Banking and Currency and waiving points of order against the bill (certain sections of the bill contained appropriations in a legislative bill). Speaker William B. Bankhead, of Alabama, overruled a point of order against the resolution where the point of order was directed against those sections of the bill:

MR. [JOHN] TABER [of New York]: Mr. Speaker, I make a point of order against certain sections of the bill referred to in the rule.

THE SPEAKER: Does the gentleman desire to make a point of order against the resolution?

MR. TABER: Against certain sections of the bill referred to in the resolution.

THE SPEAKER: The Chair will not entertain that point of order, because the matter now pending before the House is whether or not it should

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12. 84 CONG. REC. 10710, 10711, 76th Cong. 1st Sess.

agree to the resolution making a certain bill in order. . . .

The Chair is ready to rule on the point of order.

The Chair has no disposition to limit the argument of the gentleman from New York [Mr. Taber], but the Chair is very clearly of the opinion that the points of order the gentleman seeks to raise against certain provisions of the bill are not in order at this time. The House is now considering a resolution providing for the consideration of the bill against which the gentleman desires to raise certain points of order. The resolution which is now being considered itself provides, if adopted, that all points of order against the bill are waived. This is no innovation or new matter. Time after time the Committee on Rules has brought to the House resolutions waiving points of order against bills. Under the general rules of the House, the Chair will say to the gentleman, aside from the consideration which the Chair has mentioned, points of order cannot be raised against the bill until the section is reached in the bill which attempts to make appropriations and against which the point of order is desired to be made.

For those reasons the Chair does not feel like recognizing the gentleman at this juncture to state points of order against the proposed bill.

Mr. Taber: May I call the attention of the Chair to the last sentence in clause 4 of rule XXI:

> A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

There have been decisions holding that the point of order would not lie to the bill or to its consideration, but I have cited to the Chair cases where such points of order have been made and have been sustained when the bill itself was not under consideration.

The Speaker: The Chair has undertaken to make it plain that the Chair's decision is based very largely upon the proposition that the resolution now being considered specifically waives all points of order that may be made against the bill, and includes those matters evidently against which the gentleman has in mind in making points of order.

Parliamentarian's Note: The provision in Rule XXI clause 5 (clause 4 at the time of this precedent) *House Rules and Manual* § 846, 1979, allowing a point of order at any time has been interpreted to require the point of order to be raised when the section of the bill has been read, or the amendment is pending, under the five-minute rule.

§ 23.49 Form of resolution waiving points of order against a legislative bill and committee amendments (containing appropriations in violation of Rule XXI clause 4) insofar as they pertain to a prior public law.

The following resolution reported from the Committee on Rules was under consideration on June 19, 1962:(13)

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11222) to improve and protect farm income, to reduce costs of farm programs to the Federal Government, to reduce the Federal Government's excessive stocks of agricultural commodities, to maintain reasonable and stable prices of agricultural commodities and products to consumers, to provide adequate supplies of agricultural commodities for domestic and foreign needs, to conserve natural resources, and for other purposes, and points of order against said bill as they pertain to Public Law 480, Eighty-third Congress, are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed six hours, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendments recommended by the Committee on Agriculture now printed in the bill as they pertain to Public Law 480, Eighty-third Congress. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of the bill H.R. 11222, it shall be in order in the House to take from the Speaker's table the bill S. 3225 and to move to strike out all after the enacting clause of said Senate bill and to insert in lieu thereof the provisions contained in H.R. 11222 as passed by the House.

Parliamentarian's Note: Public Law No. 83–480 was the Agricultural Trade Development and Assistance Act of 1954; H.R. 11222 allowed the use of funds already appropriated under that act for new purposes, which would be construed as a violation of Rule XXI clause 5, *House Rules and Manual*, 1979.

Designated Points of Order Permitted

§ 23.50 Form of a resolution making in order and waiving points of order against a committee amendment in the nature of a substitute, to be read as an original bill for the purpose of amendment, and allowing points of order (on the grounds of

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13. H. Res. 678, 108 Cong. Rec. 10950, 87th Cong. 2d Sess. See also H. Res. 727, 108 Cong. Rec. 14142, 87th Cong. 2d Sess., July 19, 1962.

committee jurisdiction) to be raised against any portion of said amendment.

On Oct. 27, 1971,(14) the House adopted House Resolution 661, providing for the consideration of H.R. 7248 (to amend the Higher Education Act and for other purposes). The resolution contained a provision allowing points of order to be raised against the committee amendment in the nature of a substitute:

> . . . It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 4, rule XXI are hereby waived, and further, all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248.

§ 24. As to Control, Distribution, and Duration of Debate

In providing for the consideration of bills, special orders from the Committee on Rules usually state that it shall be in order to resolve into the Committee of the Whole, that general debate continue not to exceed a certain number of hours, to be equally divided and controlled by the chairman and ranking minority member of the reporting committee, and that the bill be read for amendment under the five-minute rule. Upon the report of the Committee of the Whole to the House, the previous question is considered as ordered by the special order, and no further debate in the House will be in order except on a motion to recommit with instructions.

The special order may divide the time and control of general debate among several committees, and may provide that general debate continue not for hours but for days.(15)

Debate under the five-minute rule may be limited to a time

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14. 117 Cong. Rec. 37765, 37766, 92d Cong. 1st Sess.

15. Generally, the term one day as so used means one legislative day. See § 24.8, infra.

certain,(16) and "closed" rules, or special orders allowing no amendments, or only certain amendments, such amendments not to be subject to amendment, have the effect of restricting five-minute debate to 10 minutes (five for and five against) on each amendment specifically made in order (unless "pro forma" amendments are expressly made in order).(17)

The Committee on Rules may also recommend by special order that the normal operation of the hour rule in the House (as opposed to the Committee of the Whole) be altered, as by fixing the time and control of debate in the House or in the House as in the Committee of the Whole.(18)

Cross References

As to debate in Committee of the Whole generally, see Ch. 19, supra.

As to debate and consideration generally, see Ch. 29, infra.

As to debate on and consideration of reports from Committee on Rules, see § 18, supra.

As to debate on and consideration of Senate bills and amendments and conference reports, see § 27, infra.

Designated Member Controlling Portion of Debate

§ 24.1 Form of resolution dividing general debate among the chairman and ranking minority member of a committee and another designated member.

The following resolution was under consideration on Dec. 10, 1973:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10710) to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed seven hours, six hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and one hour to be controlled by Representative John H. Dent, of Pennsylvania, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means, an amendment offered to section 402 of said bill containing the text printed on page 34311 of the Congressional Record of October 16, 1973, an amendment proposing to strike out title IV of said bill and an amendment proposing to strike out title V of said bill, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.(19)

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(16) See § 24.9, infra.

(17) See §§ 24.11–24.15, infra. But see § 22.19, supra (pro forma amendments made in order by "closed" rule).

(18) See §§ 24.16–24.20, infra.

§ 24.2 Where a resolution provided the time for debate and the control thereof, the Members in control obtained unanimous consent in the House that a part of the time be controlled by a third Member.

On May 14, 1948, the House adopted a resolution (H. Res. 582) providing for five hours of debate on a bill, to be divided and controlled by the Chairman and ranking minority member of the Committee on Un-American Activities.(1)

By unanimous consent in the House (prior to resolving into Committee of the Whole) the Members in control then transferred part of the time to be controlled by other Members:(2)

Mr. [Charles A.] Halleck [of Indiana]: Mr. Speaker, after consultation with the members of the Committee on Un-American Activities, I ask unanimous consent that of the 2 ½ hours to be allocated on this side of the aisle, a total of 45 minutes may be allocated by the gentleman from New York [Mr. Marcantonio] with the last 30 minutes of the over-all time reserved to the committee.

The Speaker:(3) Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. [John S.] Wood [of Georgia]: Mr. Speaker, I ask unanimous consent to yield 45 minutes of the time allotted to me to the gentleman from New York [Mr. Marcantonio] in behalf of the opposition to this measure, reserving the last 20 minutes of the time allotted to me.

The Speaker: Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. [Karl E.] Mundt [of South Dakota]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5852) to combat un-American activities by requiring the registration of Communist-front organizations and for other purposes.

The motion was agreed to.

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(19) H. Res. 657, 119 Cong. Rec. 40489, 93d Cong. 1st Sess.

(1) 94 Cong. Rec. 5838, 80th Cong. 2d Sess.

(2) *Id.* at pp. 5847, 5848.

(3) Joseph W. Martin (Mass.).

Two or More Committees in Control

§ 24.3 Forms of special orders designating more than one committee to control time for general debate in Committee of the Whole.

The following resolution was under consideration on June 4, 1940:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H.R. 9195, a bill to amend the National Labor Relations Act, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 4 hours, 1 hour to be controlled by the chairman of the Committee on Labor, 1 hour to be controlled by the ranking minority member of the Committee on Labor, and 2 hours to be controlled by the chairman of the Special Committee to Investigate the National Labor Relations Board, the bill shall be read, and after the reading of the first section of such bill it shall be in order to move to strike out all after the enacting clause and insert as a substitute the text of the bill H.R. 8813 and all points of order against such substitute are hereby waived. At the conclusion of the consideration of the bill H.R. 9195 the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit, with or without instructions.(4)

As a further example, the following resolution was considered on Apr. 26, 1956:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10660) to amend and supplement the Federal-Aid Road Act approved July 11, 1916, to authorize appropriations for continuing the construction of highways; to amend the Internal Revenue Code of 1954 to provide additional revenue from the taxes on motor fuel, tires, and trucks and buses; and for other purposes. After general debate, which shall be confined to the bill, and shall continue not to exceed 5 hours, 3 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, and 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the 5-minute rule. No amendments shall be in order to title II of the bill except amendments offered by direction of the Committee on Ways and Means which shall be in

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4. H. Res. 465, 86 Cong. Rec. 7506, 7507, 76th Cong. 3d Sess.

order notwithstanding any rule of the House to the contrary, but shall not be subject to amendment. At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.[5]

§ 24.4 A special rule may provide for the consideration of a bill where general debate is to be divided between two committees, and where part of the committee substitute in the bill is open to amendment and part is closed.

On Sept. 23, 1970,[6] the House adopted a special order offered by Mr. Ray J. Madden, of Indiana, at the direction of the Committee on Rules:

H. Res. 1216

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, three hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of title II of the amendment in the nature of a substitute for amendment, title III of said substitute shall be considered as having been read for amendment. No amendments shall be in order to title III of said substitute except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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[5] H.Res. 485, 102 Cong. Rec. 7110, 84th Cong. 2d Sess.

See also H. Res. 275, 107 Cong. Rec. 7378, 87th Cong. 1st Sess., May 4, 1961, providing for consideration of a bill for federal aid to highways (Committee on Public Works and Committee on Ways and Means); H. Res. 610, 115 Cong. Rec. 33260, 91st Cong. 1st Sess., Nov. 6, 1969, providing for consideration of the Federal Aviation Facilities Expansion and Improvement Act of 1969 (Committee on Interstate and Foreign Commerce and Committee on Ways and Means); H. Res. 1216, 116 Cong. Rec. 33296, 91st Cong. 2d Sess., Sept. 23, 1970, providing for consideration of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Committee on Interstate and Foreign Commerce and Committee on Ways and Means).

[6] 116 Cong. Rec. 33296–98, 91st Cong. 2d Sess.

When the House resolved itself into the Committee of the Whole for the consideration of the bill the Chairman of the Committee of the Whole made a statement relative to general debate on the bill:

THE CHAIRMAN:[7] Pursuant to the rule, general debate shall continue not to exceed 4 hours—3 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

At the conclusion of general debate, the Chairman announced the procedure to be followed during the amendment process:[8]

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Chairman, we have no further requests for time.

THE CHAIRMAN: Under the rule, titles I and II of the committee substitute amendment printed in the bill will be read for amendment as an original bill under the rule.

The rule also provides title III shall be considered as having been read for amendment and no amendments are in order to title III of the substitute except amendments offered by direction of the Committee on Ways and Means.

The Clerk will read.[9]

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[7] William S. Moorhead (Pa.).

[8] 116 CONG. REC. 33318, 91st Cong. 2d Sess., Sept. 23, 1970.

[9] For a similar statement by the Chairman of the Committee of the Whole on a bill considered under the same procedure, see 115 CONG. REC. 33308, 91st Cong. 1st Sess., Nov. 6, 1969.

Parliamentarian's Note: The bill provided for in the special order had been reported by the Committee on Interstate and Foreign Commerce, but the hearings and markup on title III of the bill, as well as certain recommendations as to the provisions of title II, were the work product of the Committee on Ways and Means. The procedure for considering the bill, with general debate divided between the two committees, was determined after consultation with the two committees involved.

General Debate Fixed by Days

§ 24.5 The Committee on Rules has the right to report out a special rule fixing time for debate on a bill to a certain number of days instead of hours.

On Sept. 3, 1940,[10] Mr. Adolph J. Sabath, of Illinois, called up by direction of the Committee on Rules House Resolution 686, providing for the consideration of H.R. 10132, to provide for a system of selective compulsory military training and service. The resolution provided for general debate to "continue not to exceed 2 days," and Speaker pro tempore Jere Cooper, of Tennessee, overruled a point of order against the resolution:

> MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker a point of order.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.
>
> MR. MARCANTONIO: Mr. Speaker, I make the point of order that the resolution is contrary to the unwritten law of the House. It has been the universal practice, custom, and tradition of the House to have debate fixed by hours. This resolution fixes general debate by days. This is entirely meaningless, because a day may be terminated by a motion that the Committee rise or by adjournment, and for that reason I press my point of order.
>
> THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. The gentleman from New York makes the point of order that the resolution is contrary to the unwritten rules of the House in that general debate is fixed by days instead of hours.
>
> In the first place, the point of order comes too late.
>
> In the second place, this is a resolution reported by the Committee on Rules to change the rules of the House, which is permissible on anything except that which is prohibited by the Constitution.
>
> The point of order is overruled.
>
> The gentleman from Georgia [Mr. Cox] is recognized for 5 minutes.

§ 24.6 Form of resolution providing for consideration of a bill and fixing the time for debate at one day.

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[10] 86 CONG. REC. 11359, 11360, 76th Cong. 3d Sess.

The following resolution was under consideration on Aug. 17, 1949:[11]

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5895) to promote the foreign policy and provide for the defense and general welfare of the United States by furnishing military assistance to foreign nations, and all points of order against the said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 1 day, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 24.7 Form of resolution providing that general debate on a bill end by a certain time on a certain day.

The following resolution was under consideration on June 20, 1951:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4473) to provide revenue, and for other purposes, and all points of order against the bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 2 days, such general debate to end not later than 4 o'clock p.m., on the second day of debate, and which shall be confined to the bill, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by the direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding. Amendments offered by direction of the Committee on Ways and Means may be offered to any section of the bill at the conclusion of the general debate, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.(12)

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[11] H.Res. 327, 95 CONG. REC. 11658, 81st Cong. 1st Sess. The term "one day" means one legislative day as terminated by adjournment.

§ 24.8 Where debate on a bill is fixed by resolution at one day the term one day means one legislative day as terminated by adjournment.

On Aug. 17, 1949,(13) Chairman of the Committee of the Whole Wilbur D. Mills, of Arkansas, answered an inquiry as to length of debate on a bill, where the House had adopted a resolution providing for general debate to "continue not to exceed 1 day":

> THE CHAIRMAN: Under the rule general debate will be equally divided and will not exceed one day.
>
> MR. [JOSEPH P.] O'HARA of Minnesota: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. O'HARA of Minnesota: What is meant by the term "one day"?
>
> THE CHAIRMAN: The term means one legislative day as terminated by adjournment, from now until the time the House adjourns.

Debate Under Five-minute Rule

§ 24.9 Form of resolution closing general debate on a bill in Committee of the Whole, providing that the bill be considered as having been read for amendment, and limiting the duration of the five-minute debate to an hour and a half.

The following resolution was under consideration on Apr. 17, 1936:(14)

> HOUSE RESOLUTION 489
>
> *Resolved,* That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 11563, a bill declaring an emergency in the housing condition in the District of Columbia; creating a Rent Commission for the District of Columbia; prescribing powers and duties of the commission, and for other purposes; and all points of order against said bill are hereby waived. General debate on said bill shall be considered as closed, and the bill shall be considered as having been read the second time. Amendments may be offered to any section of the bill, but debate under the 5-minute rule shall be closed within one hour and a half. At the conclusion of the consideration of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to

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12. H. Res. 262, 97 CONG. REC. 6380, 82d Cong. 1st Sess.
13. 95 CONG. REC. 11666, 81st Cong. 1st Sess.
14. 80 CONG. REC. 5634, 74th Cong. 2d Sess.

final passage without intervening motion, except one motion to recommit with or without instructions.

§ 24.10 Where a special rule provided for the reading of a bill in its entirety it was held in order following that reading (and following debate under the five-minute rule) to move to close debate on the bill and all amendments thereto.

On Aug. 22, 1935, the Committee of the Whole was considering H.R. 8455, a bill providing public works on rivers and harbors, etc., pursuant to a special order (H. Res. 349) which provided in part as follows:

> That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Flood Control, the bill in its entirety shall be read for amendment, following which amendments shall be in order to any paragraph of the bill, and such amendments shall be considered under the 5-minute rule.(15)

Following some debate in Committee of the Whole under the five-minute rule, a motion to close debate was offered:

Mr. [Jack] Nichols [of Oklahoma]: Mr. Chairman, I move that all debate on this bill and all amendments thereto close in 30 minutes.

The Chairman:(16) The gentleman from Oklahoma [Mr. Nichols] moves that all debate on the bill and all amendments thereto close in 30 minutes.

Mr. [John] Taber [of New York]: Mr. Chairman, I make a point of order against that motion.

The Chairman: The Chair will hear the gentleman.

Mr. Taber: Mr. Chairman, such a motion is only in order when a bill is being read by sections and after an amendment has been offered. The motion is not in order at this stage.

The Chairman: The rule provided for the reading of the entire bill, and the Chair holds that the motion of the gentleman from Oklahoma is in order.(17)

Five-minute Debate Under Closed Rule

§ 24.11 Where a rule under which a bill is considered permits only specified amendments and prohibits amendments to such amendments, no pro forma amendments are in order and only two five-minute speeches are permitted on each of the specified amendments.

On Apr. 20, 1955,(18) the Speaker pro tempore answered a parliamen-

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15. 79 Cong. Rec. 14151, 74th Cong. 1st Sess.

16. Claude A. Fuller (Ark.).

17. 79 Cong. Rec. 14192, 14193, 74th Cong. 1st Sess.

18. 101 Cong. Rec. 4829, 84th Cong. 1st Sess.

tary inquiry while there was pending a special order (H. Res. 211) to limit amendments to a bill to specified amendments which themselves would not be subject to amendment:

MR. [ROBERT J.] CORBETT [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:(19) Does the gentleman yield for a parliamentary inquiry?

MR. [HOWARD W.] SMITH of Virginia: Let me say to the gentleman that from a strictly parliamentary standpoint there would only be 10 minutes, 5 on one side and 5 on the other. Whether you can get unanimous consent or not I do not know.

THE SPEAKER PRO TEMPORE: The time of the gentleman from Virginia has expired.

MR. [LEO E.] ALLEN of Illinois: Mr. Speaker, I yield myself such time as I might require.

MR. CORBETT: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: Does the gentleman from Illinois yield to the gentleman from Pennsylvania for a parliamentary inquiry?

MR. ALLEN of Illinois: I yield to the gentleman from Pennsylvania.

MR. CORBETT: Mr. Speaker, I would like to raise the question, if this rule is adopted, and when the amendments are presented, whether or not the amendments will be open to discussion under the 5-minute rule or we will be limited to one 5-minute speech for and one 5-minute speech against the amendment?

THE SPEAKER PRO TEMPORE: Under the rules, there will be one 5-minute for and one 5-minute against. No pro forma amendments will be in order.

Parliamentarian's Note: A "closed" rule may specifically make in order pro forma amendments.(20)

§ 24.12 The House may agree by unanimous consent to extend debate in the Committee of the Whole on specified amendments to a bill being considered under a rule prohibiting pro forma amendments (and therefore allowing only 10 minutes on each amendment).

On Apr. 20, 1955, the House had under debate a resolution reported from the Committee on Rules, providing for the consideration of a bill and allowing only specified amendments to be offered, such amendments not to be subject to amendment (H. Res. 211). After the Chair had stated in response to a parliamentary inquiry that under the rule pro forma amendments would not be in order and that amendments would be debatable for only 10 minutes (five minutes for and five against), a unanimous-consent request to extend time for

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19. Carl Albert (Okla.).

20. See § 22.19, supra.

debate on a specified amendment was agreed to:[1]

Mr. [Howard W.] Smith of Virginia: Mr. Speaker, I desire to submit a unanimous-consent request. The point has been raised that there will be only 10 minutes of debate on this very controversial amendment on the pay question, which is to be found at page 82 of the bill. I should like to state frankly that I did not notice that. I believe that we should provide time for pro forma amendments, to any amendment that is offered. It was not my purpose to restrict the debate in this way. This was not called to my attention until this morning.

After consultation with the minority I ask unanimous consent that debate under the 5-minute rule on the amendment which will be offered at page 82 of the bill relating to the pay schedule, be extended for 30 additional minutes, which will provide 40 minutes of debate.

The Speaker: Is there objection to the request of the gentleman from Virginia?

Mr. [Antoni N.] Sadlak [of Connecticut]: Mr. Speaker, reserving the right to object, does that mean that we will have the usual 5 minutes for and 5 minutes against, on the other two amendments that may be offered?

Mr. Smith of Virginia: I am sorry, I did not hear the gentleman.

Mr. Sadlak: The significance of the gentleman's request that the rule as originally introduced would provide only 5 minutes of debate on each amendment to each side.

Mr. Smith of Virginia: As to the other two amendments, that is correct.

The Speaker: Is there objection to the request of the gentleman from Virginia that the time for debate on the amendment which the gentleman identified be extended 30 minutes?

Mr. [Leo E.] Allen of Illinois: Reserving the right to object, Mr. Speaker, who will have control of the time under that procedure?

The Speaker: It will be up to the Chairman of the Committee of the Whole to recognize Members under the 5-minute rule.

Mr. [Joseph W.] Martin [Jr., of Massachusetts]: Reserving the right to object, Mr. Speaker, and I am not going to object, I think we can have assurance that both sides will be equally recognized in the 30 minutes.

Mr. Smith of Virginia: I assume everybody will be fair.

The Speaker: Is there objection to the request of the gentleman from Virginia?

There was no objection.

§ 24.13 Where a bill is being considered under a rule permitting only committee amendments and prohibiting amendments thereto, a second Member rising to support the committee amendment cannot be recognized, since he would necessarily be speaking to a pro forma amendment.

On Sept. 3, 1959, the Committee of the Whole was considering a bill pursuant to a special order providing that only amendments offered by direction of the Committee on Ways and Means were in order, such amendments not to be subject to amendment (H. Res. 372). Chairman William Pat Jennings, of Virginia, advised that pro forma amendments were not in order. After a committee amendment was offered, Mr. Frank J. Becker, of New York, spoke in favor thereof for five minutes and the Chairman ruled that another Member could not be recognized in favor of the amendment:

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[1] 101 Cong. Rec. 4834, 84th Cong. 1st Sess.

> Mr. [Toby] Morris of Oklahoma: Mr. Chairman, I rise in support of the amendment.
>
> The Chairman: The Chair will state to the gentleman that only 5 minutes is permitted in support of the amendment and 5 minutes in opposition. Five minutes has been consumed in support of the amendment. Therefore, the Chair cannot recognize the gentleman at this time.[2]

§ 24.14 When an amendment, offered by direction of a committee, is being considered under a closed rule, only two five-minute speeches are in order and a third Member is not entitled to recognition notwithstanding the fact that the second Member, recognized in opposition, spoke in favor of the amendment.

On May 18, 1960, the Committee of the Whole was considering a bill under a closed rule, permitting only committee amendments and providing that such amendments not be subject to amendment (H. Res. 468). Mr. George Meader, of Michigan, had been recognized by Chairman William H. Natcher, of Kentucky, to speak for five minutes in opposition to the pending committee amendment. The Chair then answered a parliamentary inquiry:[3]

> Mr. [John H.] Dent [of Pennsylvania]: Mr. Chairman, will the gentleman yield?
>
> Mr. Meader: I yield to the gentleman from Pennsylvania.
>
> Mr. Dent: Mr. Chairman, a parliamentary inquiry.
>
> The Chairman: The gentleman will state it.
>
> Mr. Dent: Did the gentleman from Michigan get up and ask for time to speak in opposition and would that include any of us who are opposed to the bill, since he is speaking in favor of the bill?
>
> The Chairman: Under the rule, no one else can be recognized.
>
> Mr. Meader: Mr. Chairman, if the gentleman from Pennsylvania wants me to yield to him to make a statement, I will be glad to do so.
>
> Mr. Dent: I do not think that is it. I just want to know if the rules of the House allow the time to be usurped by

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[2] 105 Cong. Rec. 17988, 86th Cong. 1st Sess.

[3] 106 Cong. Rec. 10579, 86th Cong. 2d Sess.

those in favor of the bill when some time is supposed, under the rules of the House, to be allocated to those who are opposed to the bill.

The Chairman: The Chair wishes to inform the gentleman from Pennsylvania that the gentleman from Michigan stated that he rose in opposition to the amendment, and the Chair recognized the gentleman from Michigan.

§ 24.15 When a bill is being considered under a closed rule, which provides that amendments may be offered only at the direction of the committee reporting the bill, only two five-minute speeches are in order, one in support of the committee amendment and one in opposition to the amendment and the Chair gives preference in recognition to members of the committee reporting the bill.

On May 18, 1960, the Committee of the Whole was considering a bill under a rule providing that only committee amendments could be offered, such amendments not to be subject to amendment (H. Res. 468). Chairman William H. Natcher, of Kentucky, answered an inquiry on debate under the five-minute rule:

Mr. [Cleveland M.] Bailey [of West Virginia]: Mr. Chairman, will the gentleman yield?

Mr. [Hale] Boggs [of Louisiana]: I yield to the gentleman from West Virginia.

Mr. Bailey: I rise in opposition to the amendment, and I oppcse the legislation in general.

Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Bailey: On what ground may I get recognition for the purpose of opposing the legislation?

The Chairman: The Chair recognized the gentleman from Louisiana [Mr. Boggs] for 5 minutes in support of the committee amendment, so the gentleman from Louisiana would have to yield to the distinguished gentleman from West Virginia.

Mr. Bailey: At the expiration of the 5 minutes allowed the gentleman from Louisiana, may I be recognized to discuss the amendment?

The Chairman: If no other member of the committee rises in opposition to the amendment, the Chair will recognize the gentleman.(4)

Debate in the House

§ 24.16 Form of special order limiting and fixing the control of time for debate on another special order.

The following resolution reported from the Committee on Rules was under consideration on May 2, 1933:(5)

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4. 106 Cong. Rec. 10576, 86th Cong. 2d Sess.

5. H. Res. 125, 77 Cong. Rec. 2693, 73d Cong. 1st Sess. The special order provided for in the resolution (H. Res. 124), also reported from the Com-

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of House Resolution 124, and all points of order against said resolution shall be waived. That after general debate, which shall be confined to the resolution and shall continue not to exceed 5 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the previous question shall be considered on the resolution to its adoption or rejection.

§ 24.17 Form of special rule providing for the consideration of a Union Calendar bill in the House, waiving all points of order, fixing time for debate, and ordering the previous question at the conclusion of such debate (with the effect of precluding amendments).

The following resolution was under consideration on Mar. 11, 1933:[6]

House Resolution 32

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of H.R. 2820, a bill to maintain the credit of the United States Government, and all points of order against said bill shall be considered as waived; that, after general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Economy, the previous question shall be considered as ordered on the bill to final passage.

§ 24.18 Form of resolution providing that the time for debate on a motion to suspend the rules and pass a concurrent resolution shall be extended to four hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs and such motion shall be the continuing order of business of the House until finally disposed of.

The following resolution was under consideration on Sept. 20, 1943:[7]

The Clerk read as follows:

Resolved, That the time for debate on a motion to suspend the rules and pass House Concurrent Resolution 25 shall be extended to 4 hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and said motion to suspend the rules shall be the continuing order of business of the House until finally disposed of.

This resolution was itself passed under a motion to suspend the rules. Following its adoption Speak-

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mittee on Rules, provided for the disposition of a House bill with Senate amendments.

[6] 77 Cong. Rec. 198, 73d Cong. 1st Sess.

[7] H. Res. 302, 89 Cong. Rec. 7646, 78th Cong. 1st Sess.

er Sam Rayburn, of Texas, ruled that a demand for a second on the motion to suspend the rules, to gain control of time in opposition to the motion provided for, was not necessary, the House already having fixed control of debate on the motion by the adoption of the special order.

§ 24.19 Form of resolution authorizing a standing committee to call up a list of enumerated bills and providing for their consideration in the House as in the Committee of the Whole.

The following resolution reported from the Committee on Rules was under consideration on June 2, 1936:[8]

> *Resolved*, That upon the adoption of this resolution it shall be in order for the Committee on the Judiciary to call up for consideration, without the intervention of any point of order, the following bills:
>
> S. 3389. An act to provide for the appointment of two additional judges for the southern district of New York.
>
> S. 2075. An act to provide for the appointment of additional district judges for the eastern and western districts of Missouri.
>
> S. 2137. An act to provide for the appointment of one additional district judge for the eastern, northern, and western districts of Oklahoma.
>
> S. 2456. An act to provide for the appointment of an additional district judge for the northern and southern districts of West Virginia.
>
> H.R. 11072. A bill authorizing the appointment of an additional district judge for the eastern district of Pennsylvania.
>
> H.R. 3043. A bill to provide for the appointment of an additional district judge for the northern district of Georgia.
>
> Each such bill when called up shall be considered in the House as in the Committee of the Whole. After general debate on each such bill, which shall continue not to exceed 20 minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the 5-minute rule.

§ 24.20 The House adopted a resolution reported from the Committee on Rules fixing the time and control of debate in the House on another resolution reported from that committee.

On Jan. 31, 1973, the House adopted the following resolution, reported from the Committee on Rules, providing for the consideration in the House of another resolution reported from the Committee on Rules (creating a select committee to study the operations of Rule X and Rule XI, relating to committees of the House and their procedures):[9]

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[8] H. Res. 528, 80 Cong. Rec. 8746, 74th Cong. 2d Sess. See also H. Res. 529, 80 Cong. Rec. 9966, 74th Cong. 2d Sess., June 18, 1936.

> *Resolved*, That immediately upon the adoption of this resolution the House shall proceed to the consideration of the resolution (H. Res. 132) to create a select committee to study the operation and implementation of rules X and XI of the Rules of the House of Representatives. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the previous question shall be considered as ordered on the resolution to its adoption or rejection.

§ 25. As to Reading for Amendment

An order of business resolution reported from the Committee on Rules may vary the method by which a bill is read for amendment in Committee of the Whole. For example, the resolution may specify that the bill is to be read for amendment by titles instead of by sections, or that the bill shall be considered as having been read.[10] Where a bill is considered pursuant to a "closed" rule, the resolution typically provides that the bill shall be considered as having been read and that no amendments except committee amendments may be offered. Under such a rule, if no amendments are in fact offered in Committee of the Whole, the stage of amendment is passed.[11]

Special orders are often used to provide that a committee amendment in the nature of a substitute (a committee amendment printed in the reported bill, in italics, which substitutes an entirely new text for the bill) be read as an original bill for the purpose of amendment. The effect of such a resolution is to allow the committee amendment to be read section by section (or title by title, etc., as the rule specifies) and to be open to the four stages of amendment (an amendment, a substitute, and perfecting amendments to both the amendment and the substitute).[12]

Where the special order provides for reading the committee amendment in the nature of a substitute as an original bill for amendment, the resolution will usually also provide that when the bill is reported from the Committee of the Whole to the House, any Member may demand a separate vote on any amendment adopted in Committee of the Whole to the committee amendment. Without such a provision, only the committee amendment in the nature of a substitute, as perfected, would be reported to the House for a vote, under the practice of the House.(13)

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[9] H. Res. 176, 119 Cong. Rec. 2804, 93d Cong. 1st Sess.

[10] See §§ 25.1–25.7, infra.

[11] See, for example, §§ 22.17, 22.18, supra; § 25.4, infra.

[12] See §§ 25.12, 25.15, infra. A special order may further provide that a designated amendment be in order if offered as an amendment to the committee amendment in the nature of a substitute (see § 25.16, infra).

Where a bill consists of only one section, and is reported from committee with a single-section amendment in the nature of a substitute, it is not necessary to provide, in the special order, for reading the amendment as an original bill for the purpose of amendment. In the absence of such a provision, the bill will be read in its entirety and the amendment reported following general debate in Committee of the Whole, whereupon both the bill and the amendment will be pending and open to amendment.(14)

Cross References

As to reading appropriation bills for amendment, see Ch. 25, infra.

As to reading for amendment under five-minute rule in Committee of the Whole, see § 19, supra.

As to resolutions read for amendment in Committee of the Whole under special rule, see § 20, supra.

As to designated amendment made in order by special rule, see § 21, supra.

As to closed rules restricting amendments and providing bills to be considered as read, see § 22, supra.

As to amendments and reading for amendment generally, see Ch. 27, infra.

As to Senate bills read for amendment under special rule, see § 27, infra.

Varying Method of Reading Bill or Amendment in Nature of Substitute

§ 25.1 Form of resolution providing for reading an appropriation bill for amendment by "appropriation titles."

The following resolution, reported from the Committee on Rules, was under consideration on Oct. 18, 1945:(15)

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4407)

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13. See *House Rules and Manual* §§ 336, 337 [notes] (1979).
14. See § 25.13, infra. See also § 25.17, infra, for procedures where the committee amendment in the nature of a substitute is not read as original text.
15. H. Res. 375, 91 Cong. Rec. 9813, 79th Cong. 1st Sess.

reducing certain appropriations and contract authorizations available for the fiscal year 1946, and for other purposes, and all points of order against said bill are hereby waived; that after general debate, which shall be confined to the bill and continue not to exceed 3 hours, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Appropriations, the bill shall be read by appropriation titles for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Parliamentarian's Note: Appropriation bills are usually read for amendment by paragraph.(16)

§ 25.2 Form of resolution providing that a bill be read for amendment by title instead of by sections.

The following resolution, reported from the Committee on Rules, was under consideration on July 30, 1970:(17)

H. Res. 1168

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 17880) to amend the Defense Production Act of 1950, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 17880, the Committee on Banking and Currency shall be discharged from the further consideration of the bill S. 3302, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 17880 as passed by the House.

Parliamentarian's Note: Bills other than appropriation bills are usually read for amendment by section.

Where a bill is being read for amendment by titles, an amendment in the nature of a substitute may be offered after title I of the

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16. See *House Rules and Manual* § 872 (1979).

17. 116 Cong. Rec. 26253, 91st Cong. 2d Sess.

original text has been read for amendment, after the first section preceding title I (if there is such a preliminary section), or at the conclusion of the consideration of the final title of the bill.

§ 25.3 Form of resolution providing that a committee amendment in the nature of a substitute be read as an original bill by titles rather than by sections.

The following resolution, reported from the Committee on Rules, was under consideration on Jan. 31, 1964:(18)

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in education, to establish a Community Relations Service, to extend for four years the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill, and shall continue not to exceed ten hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any points of order the substitute amendment recommended by the Committee on the Judiciary now printed in the bill, and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill, and shall be read by titles instead of by sections. It shall also be in order to consider, without the intervention of any point of order, the text of the bill H.R. 980, 88th Congress, as an amendment to the said committee substitute amendment. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Reading of Bill Waived

§ 25.4 Form of "closed rule" resolution waiving the reading of a bill for amendment and permit-

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18. H. Res. 616, 110 Cong. Rec. 1511, 88th Cong. 2d Sess.

ting committee amendments only to be offered to any part of the bill.

The following resolution, reported from the Committee on Rules, was under consideration on Feb. 14, 1934:[19]

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 7835, a bill to provide revenue, equalize taxation, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and shall continue not to exceed 16 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding. Amendments offered by direction of the Committee on Ways and Means may be offered to any section of the bill at the conclusion of the general debate, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

§ 25.5 Form of resolution providing for consideration of a bill in Committee of the Whole, providing that the bill shall be considered as having been read for amendment, and providing that no amendments be in order.

The following resolution, reported from the Committee on Rules, was under consideration on June 26, 1947:[1]

> *Resolved*, That upon the adoption of this resolution is shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3961) to provide increases in the rates of pension payable to Spanish-American War and Civil War veterans and their dependents, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Veterans' Affairs, the bill shall be considered as having been read. No amendment shall

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[19] H. Res. 266, 78 Cong. Rec. 2503, 73d Cong. 2d Sess.

[1] H. Res. 262, 93 Cong Rec. 7723, 80th Cong. 1st Sess.

be in order to the said bill. At the conclusion of the general debate, the Committee shall rise and report the bill to the House and the previous question shall be considered as ordered on the bill to final passage without intervening motion, except one motion to recommit.

§ 25.6 Form of resolution closing general debate on a bill in Committee of the Whole, providing that the bill be considered as having been read for amendment, and limiting the duration of the five-minute debate to an hour and a half.

The following resolution, reported from the Committee on Rules, was under consideration on Apr. 17, 1936:[2]

House Resolution 489

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 11563, a bill declaring an emergency in the housing condition in the District of Columbia; creating a Rent Commission for the District of Columbia; prescribing powers and duties of the commission, and for other purposes; and all points of order against said bill are hereby waived. General debate on said bill shall be considered as closed, and the bill shall be considered as having been read the second time. Amendments may be offered to any section of the bill, but debate under the 5-minute rule shall be closed within one hour and a half. At the conclusion of the consideration of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion, except one motion to recommit with or without instructions.

Parliamentarian's Note: The intent of the provision in this special order for waiving the "second reading" of the bill was to consider the bill as having been read and open to amendment at any point under the five-minute rule.

§ 25.7 Form of resolution providing that the bill and committee amendment in the nature of a substitute be considered as read and permitting only committee amendments to the bill or amendment in the nature of a substitute.

The following resolution, reported from the Committee on Rules, was under consideration on Mar. 4, 1964:[3]

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8000) to amend the Internal Revenue Code of 1954 to impose a tax on acquisitions of certain foreign securities in order to equalize costs of longer term financing in the United States and in markets abroad, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on Ways and Means now in the bill and such substitute shall be considered as having been read for amendment and shall be considered as an original bill for purposes of amendment under the five-minute rule. No other amendment to the bill or committee substitute shall be in order except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but such amendments shall not be subject to amendment. At the conclusion of such consideration, the Committee shall rise and report the bill to the House, with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit with or without instructions.

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[2] 80 Cong. Rec. 5634, 74th Cong. 2d Sess.

[3] H. Res. 643, 110 Cong. Rec. 4307, 4308, 88th Cong. 2d Sess.

Reading Bill in Entirety

§ 25.8 Form of special rule providing for the consideration of a bill in the Committee of the Whole and directing that in the consideration of the bill under the five-minute rule the bill should be read in its entirety, following which amendments should be in order to any paragraph.

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 22, 1935:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 8455, a bill authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes. That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Flood Control, the bill in its entirety shall be read for amendment, following which amendments shall be in order to any paragraph of the bill, and such amendments shall be considered under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.(4)

§ 25.9 Where a special rule provided for the reading of a bill in its entirety, it was held in order following debate under the five-minute rule to move to close debate on the bill and all amendments thereto.

On Aug. 22, 1935, the Committee of the Whole was considering H.R. 8455, a bill providing public works on rivers and harbors, pursuant to a special order (H. Res. 349) which provided in part as follows:

> . . . That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Flood Control, the bill in its entirety shall be read for amendment, following which amendments shall be in order to any paragraph of the bill, and such amendments shall be considered under the 5-minute rule.(5)

Following some debate in Committee of the Whole under the five-minute rule, a motion to close debate was offered:

> Mr. [Jack] Nichols [of Oklahoma]: Mr. Chairman, I move that all debate on this bill and all amendments thereto close in 30 minutes.
>
> The Chairman:(6) The gentleman from Oklahoma [Mr. Nichols] moves that all debate on the bill and all amendments thereto close in 30 minutes.
>
> Mr. [John] Taber [of New York]: Mr. Chairman, I make a point of order against that motion.
>
> The Chairman: The Chair will hear the gentleman.
>
> Mr. Taber: Mr. Chairman, such a motion is only in order when a bill is being read by sections and after an amendment has been offered. The motion is not in order at this stage.
>
> The Chairman: The rule provided for the reading of the entire bill, and the Chair holds that the motion of the gentleman from Oklahoma is in order.(7)

Reading Committee Amendment in Nature of Substitute as Original Bill or Resolution for Amendment

§ 25.10 Form of resolution providing that, during consideration of a House resolution on the House Calendar, a committee amend-

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4. H. Res. 349, 79 Cong. Rec. 14151, 74th Cong. 1st Sess.
5. 79 Cong. Rec. 14151, 74th Cong. 1st Sess.
6. Claude A. Fuller (Ark.).
7. 79 Cong. Rec. 14192, 14193, 74th Cong. 1st Sess.

ment in the nature of a substitute be read as an original resolution for amendment.

The following resolution was under consideration on Dec. 3, 1970:[8]

H. Res. 1272

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 1147) relating to certain allowances of Members, officers, and standing committees of the House of Representatives, and for other purposes. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the resolution shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on House Administration as an original resolution for the purpose of amendment under the five-minute rule, and all points of order against sections 2(a) and 3(a) of said substitute are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the resolution or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit [with] or without instructions.

§ 25.11 Form of resolution providing, on a bill managed by two committees, that one committee's amendment in the nature of a substitute be read as an original bill for amendment (part "open", part "closed").

The following resolution was under consideration on Sept. 23, 1970:[9]

H. Res. 1216

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, three hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of title II of the amendment in the nature of a substitute for amendment, title III of said substitute shall be considered as having been read for amendment. No amendments shall be in order to title III of said substitute except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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[8] 116 Cong. Rec. 39846, 91st Cong. 2d Sess.

[9] 116 Cong. Rec. 33296, 91st Cong. 2d Sess.

§ 25.12 Where a bill is being considered under a rule providing that a committee substitute shall be read as an original bill for amendment, the Clerk reads the substitute by sections as the text to be perfected by amendment; and if said substitute, as amended, is rejected in Committee of the Whole, the original bill is read by section for amendment.

On July 10, 1941, the Committee of the Whole concluded general debate on S. 1524 (deferment under Selective Training and Service Act), where the bill was being considered pursuant to a special order providing that the committee amendment in the nature of a substitute be read as an original bill for amendment (H. Res. 243). Chairman Schuyler Otis Bland, of Virginia, answered parliamentary inquiries on reading for amendment:[10]

> THE CHAIRMAN: All time has expired. The Clerk will read.
>
> The Clerk read as follows:
>
> *Be it enacted, etc.*, That section 5(e) of the Selective Training and Service Act of 1940 is amended by adding at the end thereof the following:
>
> "Anything in this act to the con-

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[10] 87 CONG. REC. 5962, 77th Cong. 1st Sess.

> trary notwithstanding, the President is authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service under this act in the land and naval forces of the United States of the men who, on the 1st day of July 1941, or on the 1st day of July of any subsequent year, (1) are liable for such training and service, (2) have not been inducted into the land or naval forces for such training and service, and (3) have attained the twenty-eighth anniversary of the day of their birth."

THE CHAIRMAN: Pursuant to the resolution, the Clerk will now read the House substitute as an original bill, reading it by sections for amendment.

MR. [WILLIAM P.] COLE [Jr.] of Maryland: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COLE of Maryland: I understand that at the conclusion of the reading of each section of the committee substitute that particular section will be subject to amendment.

THE CHAIRMAN: The gentleman is correct.

MR. [R. EWING] THOMASON [of Texas]: A parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. THOMASON: Am I correct in understanding that the substitute offered by the House committee to the Senate bill will now be read and will be subject to amendment by sections?

THE CHAIRMAN: That is correct.

MR. THOMASON: Further, that after the committee substitute has been read and amended, if it should be amended, the question will then recur upon the adoption of the committee substitute as amended.

THE CHAIRMAN: That is correct.

MR. THOMASON: Assuming that after the committee substitute has been amended and is submitted to the Committee for a vote, the committee substitute is voted down, would the Senate bill then be read for amendment?

THE CHAIRMAN: Then the Senate bill would be considered section by section, subject to amendment.

MR. THOMASON: If we went back to the Senate bill.

THE CHAIRMAN: That is correct.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MARCANTONIO: In the event that the House bill is agreed to by the Committee, then will the House have an opportunity to vote on the House bill as a separate amendment after the Committee rises?

THE CHAIRMAN: If it is agreed to by the Committee, it will be reported back to the House as an amendment, and a vote in the House may be had on that amendment.

Parliamentarian's Note: Although the Chair directed the Clerk to read the first paragraph of the original bill before reading the first section of the substitute, that is no longer the practice when an amendment in the nature of a substitute is read as an original bill.

§ 25.13 Where a bill consists of only one section, and is reported from committee with a single section amendment in the nature of a substitute, it is unnecessary to specify, in a resolution providing for the consideration of the bill, for reading the amendment as an original bill, for in the absence of such a provision, the bill is read by the Clerk when general debate is concluded and the committee amendment is then reported; both the bill and the amendment are thus pending and open for amendment when consideration under the five-minute rule begins (although the committee amendment is not considered as original text for the purpose of offering amendments).

On July 17, 1969,(11) the House adopted the following special order, where the bill therein provided for, and the committee amendment in the nature of a substitute, consisted of only one section:

H. Res. 476

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7491) to clarify the liability of national banks for certain taxes. After general debate which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or Committee amendment in the nature of a substitute now printed in the bill. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction.

At the conclusion of general debate in Committee of the Whole, the reading for amendment proceeded as follows (Chairman Richard H. Ichord, of Missouri, presiding):(12)

The Chairman: There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. A national bank has no immunity from any sales tax, use

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11. 115 Cong. Rec. 19905, 91st Cong. 1st Sess.

12. *Id.* at p. 19913.

> tax, or personal property tax which it would be required to pay if it were a bank chartered under the laws of the State or other jurisdiction within which its principal office is located.

THE CHAIRMAN: The Clerk will report the committee amendment.

The Clerk read as follows:

> Committee amendment: Strike out all after the enacting clause and insert in lieu thereof the following:
>
> "§ 1. Amendment of section 5219 of the Revised Statutes.
>
> "(a) Section 5219 of the Revised Statutes (12 U.S.C. 548) is amended to read:
>
> " 'Sec. 5219. For the purposes of any tax law enacted under authority of the United States or any State, a national bank shall be deemed to be a bank organized and existing under the laws of the State or other jurisdiction within which its principal office is located.'
>
> "(b) The amendment made by subsection (a) becomes effective on the first day of the first calendar year which begins after the date of enactment."

MR. [GARRY E.] BROWN of Michigan: Mr. Chairman, I offer an amendment to the committee amendment.

§ 25.14 Where a committee amendment in the nature of a substitute was being considered as an original bill under a special procedure permitting points of order to be "properly raised against any title, part or section . . . within the jurisdiction of any other standing committee," the Chair indicated, in response to a parliamentary inquiry, that if the pending title of the substitute were considered as read and the Committee then rose, points of order could be made prior to amendments being offered to that title or debate thereon when the committee resumed consideration of the bill.

On Oct. 27, 1971,[13] the House adopted House Resolution 661, providing for the consideration of H.R. 7248 (to amend the Higher Education Act and for other purposes). The resolution contained a provision allowing points of order to be raised against the committee substitute:

> . . . It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 4, rule XXI are hereby waived, and further, all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248.

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[13] 117 CONG. REC. 37765, 37766, 92d Cong. 1st Sess.

While the bill was being considered for amendment in Committee of the Whole, Chairman James C. Wright, Jr., of Texas, answered an inquiry on raising such points of order if the committee should rise after agreement that a pending title be considered as read and open to amendment:[14]

MRS. [EDITH S.] GREEN of Oregon (during the reading): Mr. Chairman, I ask unanimous consent that title VIII be considered as read, printed in the Record, and open to amendment at any point.

THE CHAIRMAN: Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

MRS. GREEN of Oregon: Mr. Chairman, I move that the committee do now rise.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HALL: Mr. Chairman, will points of order lie against the title if we now rise, when we resume consideration next week?

THE CHAIRMAN: Points of order will be in order against matter contained in title VIII if they are timely offered and made prior to any further action of the committee on the pending title.

MR. HALL: I thank the Chair.

Offering Amendments to Committee Amendment in Nature of Substitute

§ 25.15 Where, pursuant to a special rule, a committee amendment in the nature of a substitute, printed in the bill, is being read as original text for the purpose of amendment, there may be pending to that text (1) an amendment in the nature of a substitute, (2) a substitute therefor, and (3) amendments to both the amendment and the substitute; and the portion of the original text (of the committee amendment in the nature of a substitute) which was pending, when the amendment in the nature of a substitute was offered thereto, is also open to amendment.

On Apr. 23, 1969, title I of a committee amendment in the nature of a substitute had been read for amendment pursuant to the provisions of a special order adopted by the House, providing that said committee amendment be read by titles as an original bill for amendment (H. Res. 366). There were pending to the committee amendment an amendment (in the nature of a substitute) and a substitute amendment therefor. Chairman Charles M. Price, of Illinois, answered parliamentary inquiries on possible pending amendments:(15)

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[14] 117 CONG. REC. 38079, 38080, 92d Cong. 1st Sess., Oct. 28, 1971.

The Chairman: For what purpose does the gentleman from Illinois (Mr. Erlenborn) rise?

Mr. [John N.] Erlenborn: To make a parliamentary inquiry, Mr. Chairman.

The Chairman: The gentleman will state it.

Mr. Erlenborn: Mr. Chairman, is the Perkins substitute amendment open to amendment at this point?

The Chairman: It is.

Mr. Erlenborn: And is the Green of Oregon amendment in the nature of a substitute open to amendment at this point?

The Chairman: It is.

Mr. Erlenborn: So both are open to amendment at this point?

The Chairman: The gentleman is correct.

Mr. Erlenborn: A further parliamentary inquiry, Mr. Chairman.

The Chairman: The gentleman will state it.

Mr. Erlenborn: Should the Perkins substitute amendment be voted upon and adopted, would it then be subject to amendment?

The Chairman: No, it would not.

Mr. Erlenborn: If the Perkins substitute amendment is voted upon and rejected, would the Green of Oregon amendment in the nature of a substitute then be open to amendment?

The Chairman: It would be.

Mr. Erlenborn: A further parliamentary inquiry, Mr. Chairman.

The Chairman: The gentleman will state it.

Mr. Erlenborn: Is title I of H.R. 514 subject to amendment at this time?

The Chairman: It is.

Parliamentarian's Note: Where, pursuant to a special resolution providing for its consideration, a bill (or committee amendment in the nature of a substitute) is being read for amendment by titles, an amendment in the nature of a substitute for the whole bill is properly offered after title I of the original text (or a section 1 preceding title I, if there is one) has been read for amendment.

In this case, the Green amendment in the nature of a substitute had been properly offered after title I of the committee amendment in the nature of a substitute had been read. As indicated by the Chair, title I of the committee amendment in the nature of a substitute was also open to amendment (to an amendment, a substitute therefor, and a perfecting amendment to each of those). In such a situation, eight amendments may conceivably be pending simultaneously, and perfecting amendments to the pending original text (title I of the committee amendment) take precedence.

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15. 115 Cong. Rec. 10066, 91st Cong. 1st Sess.

§ 25.16 Where the Committee on Rules had reported a resolution making in order consideration of a committee amendment in the nature of a substitute as an original bill for amendment, and making in order the text of another bill as an amendment in the nature of a substitute therefor, the Speaker pro tempore indicated, in response to a series of parliamentary inquiries, that (1) amendments would be in order to such substitute at any point and would not be in the third degree; (2) if the substitute text were offered when only section 1 of the committee amendment had been read, only that section of the committee amendment would be open to perfecting amendment while the substitute was pending; and (3) if the substitute were defeated in Committee of the Whole, the committee amendment would be read by sections for amendment.

On June 16, 1970, there was pending before the House House Resolution 1077 providing for the consideration of H.R. 17070, the Postal Reform Act of 1970:

H. Res. 1077

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 17070) to improve and modernize the postal service, to reorganize the Post Office Department and for other purposes, and all points of order against said bill are hereby waived. After general debate which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 17966 as a substitute for the said committee amendment. At the conclusion of the consideration of H.R. 17070 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.(16)

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16. 116 Cong. Rec. 19837, 91st Cong. 2d Sess.

Speaker pro tempore Carl Albert, of Oklahoma, answered parliamentary inquiries on offering amendments under the provisions of the special order:

Mr. [H. Allen] Smith of California: Mr. Speaker, may I present a parliamentary inquiry at this time?

The Speaker Pro Tempore: The gentleman will state his parliamentary inquiry.

Mr. Smith of California: In connection with H.R. 17070, which the Rules Committee has made in order as a committee substitute for the original committee bill, which was stricken out, and against which bill points of order are to be waived, and in addition in connection with H.R. 17966, which has been made in order as a substitute, waiving points of order, my understanding of the parliamentary situation is, if we do not get into the third degree where we are stopped, that when H.R. 17966 is offered as a substitute it will be open to amendment as we go through the bill.

The Speaker Pro Tempore: It will be open to amendment at any point.

Mr. Smith of California: It is my understanding if we have an amendment pending on that bill, which is one amendment, we can also have an amendment pending on the original bill if it applies to the same section or same part of the bill. In other words, we are not precluded from amending H.R. 17070 until we completely take care of H.R. 17966 and the Committee rises and you vote on that. We can amend in the Committee of the Whole H.R. 17070.

The Speaker Pro Tempore: If the Chair correctly understands the gentleman, the answer to it is that the Udall substitute can be offered as an amendment to section 1. Other amendments can be offered to section 1 of the committee amendment, but no other amendments can be offered beyond section 1 to the committee amendment.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. Smith of California: I yield for a parliamentary inquiry.

Mr. Gerald R. Ford: Is it not accurate to say, however, that if the Udall-Derwinski substitute, H.R. 17966, is defeated in the Committee of the Whole, then any other part of H.R. 17070 is open for amendment at any point?

The Speaker Pro Tempore: In that event, the Committee of the Whole would go back and read the committee amendment as an original bill, in which case each section would be open for amendment as it was read.(17)

§ 25.17 Where a bill was being considered in Committee of the Whole under a special procedure making in order the text of another bill as an amendment in the nature of a substitute immediately after the reading of the enacting clause (but not providing for reading of said substitute as

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17. *Id.* at p. 19838.

an original bill for amendment), the Chair indicated: (1) that the entire amendment in the nature of a substitute would be read and then open to amendment at any point; (2) that the Chair would first recognize members of the committee reporting the bill in order of seniority thereon, alternating between majority and minority sides, to offer amendments; (3) that the Chair would not, in his discretion, entertain a unanimous-consent request that said substitute be read for amendment by sections where the special order adopted by the House did not so provide; (4) that recognition to offer an amendment specifically made in order to said substitute would be governed by precedents relating to recognition where the special order did not attach a priority to that amendment; and (5) that amendments changing amendments already adopted to said substitute might not be in order, although adoption of an amendment to a section of said substitute would not necessarily preclude the offering of further amendments to that section.

On Dec. 12, 1973,(18) Mr. Gillis W. Long, of Louisiana, offered, by direction of the Committee on Rules, and the House adopted a special order providing for the consideration of the "Energy Emergency Act." The resolution made in order the text of another bill as an amendment in the nature of a substitute but did not provide that it be read as an original bill for the purpose of amendment. The resolution also made in order the text of another bill as an amendment to the amendment in the nature of a substitute:

H. Res. 744

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order immediately after the enacting clause is read to consider without the intervention of any point of order the text of the bill H.R. 11882 if offered as an amendment in the nature of a substitute for the bill H.R. 11450. It shall also be in

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18. 119 Cong. Rec. 41105–14, 93d Cong. 1st Sess.

order to consider without the intervention of any point of order the text of the bill H.R. 11891 if offered as an amendment to said amendment in the nature of a substitute. At the conclusion of the consideration of H.R. 11450 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

At the conclusion of general debate in Committee of the Whole, Harley O. Staggers, of West Virginia, Chairman of the Committee on Interstate and Foreign Commerce which had reported the bill, offered the text of H.R. 11882 as an amendment in the nature of a substitute, as provided in the special order. When he asked unanimous consent that the amendment be considered as read, printed in the Record, and open to amendment at any point, and the request was objected to, Chairman Richard Bolling, of Missouri, answered a series of parliamentary inquiries on the procedure for offering amendments under the provisions of the special order. The Chair first answered an inquiry as to when amendments could be offered to the amendment in the nature of a substitute:

Mr. [James T.] Broyhill of North Carolina: Mr. Chairman, my parliamentary inquiry is this: Does that mean that after the entire text of the bill has been read that amendments referring to any place in the bill would be in order?

The Chairman: The Chair will state that that is correct.

Mr. Broyhill of North Carolina: Mr. Chairman, a further parliamentary inquiry.

The Chairman: The gentleman will state his further parliamentary inquiry.

Mr. Broyhill of North Carolina: Mr. Chairman, does that mean that amendments to sections as they are read may not be offered at that time?

The Chairman: The Chair will state that the whole of the text of the amendment in the nature of a substitute will be read before any amendments are in order. It is one amendment. When that is done, when the entire amendment in the nature of a substitute has been read, that is, the entire text of H.R. 11882 has been read, then amendments will be in order to all of the text.

The Chair will further state that the Chair will attempt to deal with the problem of amendments when that time arrives, and will attempt to do so in an orderly fashion.(19)

The Chair then answered an inquiry as to recognition to offer

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19. *Id.* at p. 41153.

amendments to the amendment in the nature of a substitute:

Mr. Brothill of North Carolina: Mr. Chairman, a further parliamentary inquiry, or perhaps this is not a parliamentary inquiry, but I would ask the Chairman if there is any way in which we can have an orderly procedure for the offering of amendments, starting at the first part of the amendment in the nature of a substitute, and going through the bill, rather than jumping over the whole bill for amendment purposes?

The Chairman: The Chair will state that the Chair, with the cooperation of the Members, will attempt to achieve that purpose. The Chair will say that if permitted by the Membership to do so, that the Chair proposes to bring order into the situation by following the usual custom of recognizing the members of the committee alternately, from one side to the other, more or less in their order on the committee.[1]

The Chair then indicated that he did not consider it appropriate to entertain a unanimous-consent request, that the amendment in the nature of a substitute be read for amendment by section, where the special order did not so provide:

Mr. Brothill of North Carolina: Mr. Chairman, reserving the right to object, would it be in order to read the first title and then open the first title to amendment and complete that before going on?

The Chairman: Not under the rule adopted by the House under which the Committee is now operating. The rule adopted by the House is clear. The text of the amendment in the nature of a substitute, that being the bill H.R. 11882, has to be read in full. . . .

Mr. [H. R.] Gross [of Iowa]: I would ask the Chairman whether there could be some understanding that those who offer amendments will be recognized as we go along, rather than to recognize members of the committee exclusively? So that we can go through this bill in some kind of an orderly fashion, instead of going to section 103, and then to the Lord knows what the last section of the bill may be? Could there be some understanding that they could be recognized in that fashion?

Mr. Staggers: Of course, it is within the power of the Chairman who is presiding, but I would ask unanimous consent that we amend the bill section by section as we go along, saying that each section is open for amendment at any point.

The Chairman: The Chair would have to state that he is afraid that that is not a proper request at this time. The rule that was adopted by the House provides for a procedure, and while most Members feel that any unanimous consent request will do anything, the Chair has a charge from the House, simply by being the Chair, to protect the Rules of the House. The Chair has stated the way in which he will try to provide for an orderly procedure, but the rule provides for a procedure, and bringing order out of that procedure will have to be within the rule.(2)

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[1] *Id.* at pp. 41153, 41154.

Priority of recognition to offer amendments to the amendment in the nature of a substitute was discussed:

MR. [JONATHAN B.] BINGHAM [of New York]: Mr. Chairman, would it be in order for the Chairman to recognize Members offering amendments in the order in which those amendments appear in the amendment in the nature of a substitute. If he is advised, for example, that an amendment is to be offered to section 3 by the gentleman from North Carolina, will he give priority to that gentleman, and to the extent that the Chair is advised as to which sections amendments apply, will he follow the order of the sections in recognizing Members? Would that be in order?

THE CHAIRMAN: The Chairman can say that there is a solution that might achieve that result. A great many of the amendments already at the desk are from those who would be recognized first—members of the committee. If the members of the committee will proceed by self-discipline in that fashion, the situation will then work out. The only solution that the Chair can see is for the members of the committee who have amendments to the first part of the first title to rise first, and the rest not rise, and proceed in that fashion.

The Chair recognizes the situation.

MR. BINGHAM: Mr. Chairman, I have a further parliamentary inquiry. If the Chair is advised that nonmembers of the committee have amendments to early sections, would he be free to recognize nonmembers of the committee before recognizing other members of the committee for amendments to a later section?

THE CHAIRMAN: The custom of the House, and the almost unfailing custom of the House, is to recognize members of the committee, alternating sides from the majority to the minority. The Chair does not propose to discuss the philosophy of that custom, but that is the custom.(3)

In relation to the amendment made in order to the amendment in the nature of a substitute by the special order, the Chair indicated the priority of recognition to offer that amendment:

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, reserving the right to object, I should like to inquire, if the request of the gentleman is accepted and there is no objection to it, when it would be timely for the amendment made in order by the rule to the text of the substitute to be offered, that amendment being H.R. 11891, which would be the amendment, as the rule prescribes, to H.R. 11882?

THE CHAIRMAN: The Chair would repeat what the Chair has already said. The Chair would recognize Members to offer amendments as they are reached in the customary procedure of the House.

There is no particular priority, there is no special priority given to that

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2. *Id.* at p. 41154.

3. *Id.*

amendment but the gentleman is a member of the committee and he ranks on the committee and the Chair would seek to reach him in an orderly fashion.(4)

The Chair also responded to inquiries as to the possibility of offering amendments to sections which had already been changed by amendment:

Mr. [John T.] Myers [of Indiana]: Mr. Chairman, under the rule we are operating on now, later tonight when there is consideration of the amendment to the later sections of the bill, would it still be in order to recognize somebody for amendment of an earlier section which had been already passed over?

The Chairman: We could not amend text that had been amended but an unamended portion would still be open to amendment.

Mr. Broyhill of North Carolina: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. Broyhill of North Carolina: Mr. Chairman, would that mean another amendment to another part of that section would not be in order?

The Chairman: The gentleman is getting the Chair into a position where he cannot answer a theoretical question because there are so many different variations. If under the rules of the House a particular section would still be in an amendable condition, the Chair would have to recognize a Member to offer a proper amendment. It might be a situation where the amendment would have been amended and it would not be in order to further amend it. The Chair cannot project all the different variations and possibilities and must meet them as they arise. . . .

There is no special treatment involved here. The general rules provide for certain procedures. For example, one rule is that if a section is amended by a complete substitute, it is not subject to further amendment. But we are operating under the rules of the House and if there is a section that is amendable it will continue to be amendable until the final process is over, but there are certain circumstances under which a section having been amended is no longer amendable. That would be the general limitation, but we are going to operate under the general rules of the House in as orderly a fashion as the Chairman and the Members of the House are capable of producing.(5)

§ 26. As to Voting and Motions

One motion which a special order may affect in Committee of the Whole is the motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken. As long as the stage of amendment is still pending, the motion is in order. But in the event a "closed" rule has been adopted,

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4. *Id.*

5. *Id.* at pp. 41154, 41155.

and no (committee) amendments are offered in Committee of the Whole, the stage of amendment has passed and the motion is not in order.(6) Motions to strike out a portion of a bill, which are in effect amendments, may also depend on the provisions of a special order, particularly if the resolution specifically makes in order such an amendment.(7)

Special orders usually provide that following the report of the Committee of the Whole to the House on a bill which has been debated and amended, the previous question shall be considered as ordered on the bill and amendments thereto to final passage (without intervening motion except one motion to recommit). The effect of such a provision is to preclude further debate or amendments in the House on the bill, except on a motion to recommit with instructions.(8)

The motion to recommit may not be denied by the provisions of a resolution from the Committee on Rules, pursuant to the provisions of Rule XI.(9) But a special order may alter the permissible form and scope of the motion to recommit. A resolution from the Committee on Rules may, for example, allow two motions to recommit on the same measure.(10) Usually, a "closed" rule specifies that during the consideration of a bill in Committee of the Whole, no amendments, or only certain amendments, may be offered. Under the provisions of such a rule, a motion to recommit with instructions could be offered in the House to recommit with instructions to incorporate an amendment which would not have been in order in Committee of the Whole only because of the resolution. But the Committee on Rules

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6. See §§ 26.1, 26.2, infra. For an occasion where the motion that the Committee rise and report the bill back to the House with the recommendation that it be recommitted was held out of order, see § 26.3, infra.
7. Motions to strike out portions of a bill are sometimes made in order in conjunction with a "closed" rule, allowing only committee amendments or specified amendments to be offered. See § 22, supra.
8. See § 26.4, infra. If a special order provides for consideration of a measure in the House, and orders the previous question after a certain amount of debate, further debate or amendments are similarly precluded. See § 26.5, infra.
9. Rule XI clause 4(b) in the *House Rules and Manual* § 729(a) 1979. See §§ 26.8, 26.11, infra.
10. See §§ 26.13, 26.14, infra.

may report and the House may adopt a resolution restricting amendments to a certain title of a bill both in the House and in the Committee of the Whole, thus prohibiting such a motion to recommit with instructions.(11)

Where a special order provides that a committee amendment in the nature of a substitute may be offered, or may be read as an original bill for the purpose of amendment, the resolution usually provides that there may be offered a motion to recommit "with or without instructions." The purpose of that language is to allow a motion to recommit with instructions to report back with amendments, despite previous adoption by the House of a committee amendment in the nature of a substitute reported from Committee of the Whole (it is not in order, without the provisions of such a resolution, to amend an amendment already adopted by the House).(12)

A Member may demand a separate vote in the House on an amendment to a committee amendment in the nature of a substitute adopted in the Committee of the Whole, where the bill is being considered under a special rule permitting separate votes in the House on any of the amendments adopted in the Committee of the Whole to the bill or to the committee amendment. Special rules permitting such separate votes generally provide that at the conclusion of consideration of the bill in Committee of the Whole, "the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendments in the nature of a substitute."(13) Thus, where a committee amendment in the nature of a substitute is read as an original bill for the purpose of amendment, or where a single-section bill with a committee amendment in the nature of a substitute is under consideration, all amendments adopted to it in Committee of the Whole are subject to a demand for a separate vote in the House pursuant to a special order so providing, regardless of the consistency of such amendments.(14) Without a special order permitting such separate votes, the House would, upon the report of the Committee of the Whole, have only the choice between the committee amendment in the nature of a substitute, as perfected (since only one amendment in its perfected form is reported back from Committee of the Whole), and the original bill.

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(11) See §§ 26.11, 26.12, infra.

(12) See § 26.10, infra; and *House Rules and Manual* § 788 [note] (1979).

(13) See § 26.15, infra.

(14) See § 26.20, infra.

Cross References

As to motions in Committee of the Whole, see Ch. 19, supra.

As to motions generally, see Ch. 23, infra.

As to voting generally, see Ch. 30, infra.

As to motions to strike out portion of bill made in order, see § 22, supra.

As to voting on amendments between the Houses and conference reports under special rules, see § 27, infra.

Motion That Committee Rise and Report Bill to House With Recommendation That Enacting Clause Be Stricken

§ 26.1 Where a bill is being considered under a rule permitting only committee amendments and no amendments thereto, a motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out is in order until the stage of amendment has passed.

On Sept. 3, 1959,(15) a preferential motion was offered in the Committee of the Whole while H.R. 8678 (Federal-Aid Highway Act) was under consideration for amendment under the five-minute rule (where only committee amendments were permitted under the special rule, and there remained other committee amendments besides the one pending):

> **The Chairman:**(16) The Chair will state to the gentleman that only 5 minutes is permitted in support of the amendment and 5 minutes in opposition. Five minutes has been consumed in support of the amendment. Therefore, the Chair cannot recognize the gentleman at this time.
>
> The question is on the amendment.
>
> The amendment was agreed to. . . .
>
> **Mr. [Wayne L.] Hays** [of Ohio]: Mr. Chairman, I offer a preferential motion.
>
> **The Chairman:** The Clerk will report the motion.
>
> The Clerk read as follows:
>
> > Mr. Hays moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. Hays was recognized for five minutes in favor of the motion, and another Member was recognized for five minutes in opposition.

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15. 105 Cong. Rec. 17988, 17989, 86th Cong. 1st Sess.

16. William Pat Jennings (Va.).

The bill was being considered under a special order providing as follows:(17)

> . . . After general debate, which shall be confined to the bill, and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Public Works. Amendments offered by direction of the Committee on Public Works may be offered to any section of the bill at the conclusion of the general debate, but said amendments shall not be subject to amendment.(18)

§ 26.2 Where a bill is being considered under a "closed" rule permitting only committee amendments and no amendments thereto, a motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out is not in order where no committee amendments are offered, since the stage of amendment has been passed.

On Apr. 6, 1970, the Committee of the Whole concluded general debate on H.R. 16311 (the Family Assistance Act of 1970) where the House had adopted a "closed" rule for the consideration of the bill, allowing only committee amendments to the bill, such amendments not to be subject to amendment (H. Res. 916). Chairman John D. Dingell, of Michigan, indicated in response to a parliamentary inquiry that since no committee amendments were offered, the stage of amendment was passed and a preferential motion was not in order:(19)

> MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Chairman, I have no further requests for time. I had some time to reserve for myself, but I yield back the balance of my time.
>
> THE CHAIRMAN: Under the rule, the bill is considered as having been read for amendment. No amendments are in order to the bill except amendments offered by direction of the Committee on Ways and Means.
>
> Are there any committee amendments?
>
> MR. MILLS: Mr. Chairman, there are no committee amendments.
>
> MR. [OMAR T.] BURLESON of Texas: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

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17. H. Res. 372, 105 CONG. REC. 17946, 86th Cong. 1st Sess.
18. See also 106 CONG. REC. 12720–25, 86th Cong. 2d Sess., June 15, 1960; and 106 CONG. REC. 10577–79, 86th Cong. 2d Sess., May 18, 1960.
19. 116 CONG. REC. 12092, 91st Cong. 2d Sess.

MR. BURLESON of Texas: Mr. Chairman, I have a preferential motion. Is it in order to offer a preferential motion at this time?

THE CHAIRMAN: Will the gentleman advise the Chair what sort of preferential motion he has in mind?

MR. BURLESON of Texas: To strike the enacting clause.

THE CHAIRMAN: The Chair will advise the gentleman from Texas that that motion is not in order unless amendments are in order, and are offered. There being no committee amendments, that motion will not be in order at this time.

MR. BURLESON of Texas: Mr. Chairman, may I inquire, if there are no committee amendments to be offered, if the bill is perfected?

THE CHAIRMAN: The Chair will advise the gentleman from Texas that the chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. Mills), has just advised the Chair that there are no committee amendments. That being so, the motion is not in order at this time.

Motion That Committee of the Whole Rise and Report Bill to House With Recommendation That it Be Recommitted

§ 26.3 A motion that the Committee of the Whole do now rise and report a bill back to the House with the recommendation that it be recommitted to the committee from which reported is not in order where the Committee of the Whole is considering the bill under a resolution setting out the conditions under which the bill is to be considered.

On Aug. 10, 1950, there was pending before the Committee of the Whole a bill being considered pursuant to a special order adopted on July 31:(20)

> *Resolved*, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9176) to establish a system of priorities and allocations for materials and facilities, authorise the requisitioning thereof, provide financial assistance for expansion of productive capacity and supply, strengthen controls over credit, regulate speculation on commodity exchanges, and by these measures facilitate the production of goods and services necessary for the national security, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continued not to exceed 1 day, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the subsititute committee amendment recommended by the Committee on

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20. H. Res. 740, 96 CONG. REC. 11432, 11433, 81st Cong. 2d Sess.

Banking and Currency now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

In Committee of the Whole, Chairman Howard W. Smith, of Virginia, ruled that it was not in order to move that the Committee rise and report the bill back to the House with the recommendation that the bill be recommitted to the committee which had reported it:[1]

Mr. [John E.] Rankin [of Mississippi]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Rankin moves that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further hearings and study.

Mr. [Wright] Patman [of Texas]: Mr. Chairman, a point of order.

The Chairman: The gentleman will state it.

Mr. Patman: Mr. Chairman, I make the point of order that this being a straight motion to recommit, without instructions, it is not permissible under the rule under which we are considering the bill in Committee.

The Chairman: The Chair is ready to rule.

That motion is not in order in Committee of the Whole, and the Chair sustains the point of order.

Mr. Rankin: Mr. Chairman, it is in order to make a motion that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further study and hearing.

The Chairman: In the consideration of this bill the Committee of the Whole is operating under a special rule which lays down the conditions under which the bill is to be considered. The motion of the gentleman from Mississippi is not in order at this time.

Parliamentarian's Note: Although the earlier precedents indicate that a motion that the Committee of the Whole rise and report a bill to the House with the recommendation it be recommitted is privileged in Committee of the Whole (see, i.e., 8 Cannon's Precedents § 2329), that motion is not in the current practice admissible when inconsistent with a special rule providing for consideration (as opposed to consideration under the general rules of the

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1. *Id.* at p. 12219.

House). Since a typical special rule provides for a motion to recommit pending the vote on passage in the House (the previous question having been ordered by the rule), recommittal should be in order only at that time (or after the Committee rises with the recommendation that the enacting clause be stricken, under Rule XXIII, clause 7).

Previous Question Considered as Ordered by Special Order

§ 26.4 When the Chairman of the Committee of the Whole reports a bill back to the House pursuant to a resolution providing that the previous question shall be considered as ordered, further debate or amendments in the House are thereby precluded; and the Speaker does not entertain unanimous-consent requests that further amendments be in order.

On Aug. 31, 1960,[2] the Committee of the Whole reported a bill back to the House, where the special order under which the bill was being considered provided that the previous question be considered as ordered. Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry on the possibility for further debate and amendments:

> THE SPEAKER: Under the rule the previous question is ordered.
>
> The question is on the third reading of the Senate bill.
>
> The bill was read a third time.
>
> MR. [H. CARL] ANDERSEN of Minnesota: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. ANDERSEN of Minnesota: Would it be possible by unanimous consent to return to the amendment stage?
>
> THE SPEAKER: It would not. The previous question has already been ordered. All amendments and all debate are exhausted.
>
> The question is on the passage of the bill.

§ 26.5 The right to offer amendments does not exist where a special rule, in providing for the consideration of a bill in the House, orders the previous question after a fixed time for general debate.

On Mar. 11, 1933, Mr. Joseph W. Byrns, of Tennessee, offered an original resolution from the floor before committees were elected but after rules were adopted:

> HOUSE RESOLUTION 32
>
> *Resolved*, That immediately upon the adoption of this resolution the House shall proceed to the consideration of H.R. 2820, a bill to maintain the credit

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[2] 106 CONG. REC. 18748, 86th Cong. 2d Sess.

of the United States Government, and all points of order against said bill shall be considered as waived; that, after general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Economy, the previous question shall be considered as ordered on the bill to final passage.

Speaker Henry T. Rainey, of Illinois, answered a parliamentary inquiry as to the right to offer amendments under the provisions of the resolution:

MR. [GORDON] BROWNING [of Tennessee]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BROWNING: If this resolution is adopted, there will not be any privilege of amendment given to the House, under any consideration?

THE SPEAKER: There will not be.(3)

Parliamentarian's Note: Although the Record does not so indicate, the resolution was considered without objection; since not reported from the Committee on Rules, the resolution was not privileged for consideration.

Motion to Recommit

§ 26.6 Form of special rule providing that a certain bill shall be considered as having been engrossed and read a third time, and that the House shall immediately proceed to vote on the passage of the bill without any intervening motion except one motion to recommit.

The following resolution was under consideration on June 20, 1936:(4)

HOUSE RESOLUTION 559

Resolved, That immediately upon the adoption of this resolution the bill H.R. 12455, entitled "A bill to provide for the administration and maintenance of the Blue Ridge Parkway, in the States of Virginia and North Carolina, by the Secretary of the Interior, and for other purposes", shall be considered as having been engrossed and read a third time, and the House shall immediately proceed to vote upon the passage of said bill without any intervening motion except one motion to recommit, with or without instructions.

Parliamentarian's Note: The form of this resolution predates the deletion in the 89th Congress of the provision in Rule XXI clause 1, which allowed a Member to demand the reading in full of the engrossed copy of a bill.

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3. 77 CONG. REC. 198, 73d Cong. 1st Sess.

4. 80 CONG. REC. 10611, 74th Cong. 2d Sess. The bill had been brought up under a motion to suspend the rules on the same day, and had been defeated both times.

§ 26.7 Form of resolution allowing a motion to recommit containing instructions germane to the bill or committee substitute.

The following resolution was under consideration on Aug. 22, 1950:(5)

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2317) to authorize grants to the States for surveying their need for elementary- and secondary-school facilities and for planning State-wide programs of school construction; and to authorize grants for emergency school construction to school districts overburdened with enrollments resulting from defense and other Federal activities, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without intervention of any point of order the substitute committee amendment recommended by the Committee on Education and Labor now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted and any member may demand a separate vote in the House on any amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, and such motion to recommit may contain instructions germane to the bill or committee substitute.

Parliamentarian's Note: Motions to recommit with instructions normally must be germane to the bill in its perfected form, not to the introduced bill or committee substitute.

§ 26.8 Where a special order by its terms orders the previous question at a certain time on a bill to final passage, it was held that the right to offer a motion to recommit was reserved by the rules notwithstanding the provisions of the special rule.

On Mar. 11, 1933, before any committees were elected, Mr. Joseph W. Byrns, of Tennessee, offered (without objection) the following resolution:

House Resolution 32

Resolved, That immediately upon the adoption of this resolution the House

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5. H. Res. 812, 96 Cong. Rec. 13039, 81st Cong. 2d Sess.

shall proceed to the consideration of H.R. 2820, a bill to maintain the credit of the United States Government, and all points of order against said bill shall be considered as waived; that, after general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Economy, the previous question shall be considered as ordered on the bill to final passage.

Despite the provisions of the resolution, Speaker Henry T. Rainey, of Illinois, indicated that a motion to recommit would be in order:

Mr. [Gordon] Browning [of Tennessee]: Would a motion to recommit be in order following the third reading of the bill?

The Speaker: It would; yes.(6)

§ 26.9 Where a special rule providing for the consideration of a bill provides for "one motion to recommit," it is interpreted to mean "one valid motion to recommit;" and if a point of order is sustained against a motion to recommit with instructions because it is not germane to the bill, another motion to recommit may be entertained by the Chair.

On Mar. 2, 1967, H.R. 4515, supplemental military authorizations, was ordered to be engrossed and read a third time in the House and was read the third time. Mr. Henry S. Reuss, of Wisconsin, offered a motion to recommit with instructions and Mr. L. Mendel Rivers, of South Carolina, made a point of order against the motion on the grounds that it was not germane to the bill. Speaker John W. McCormack, of Massachusetts, sustained the point of order.(7)

The Speaker then entertained another motion to recommit and answered an inquiry relative thereto (where the special order, H. Res. 347, provided for one motion to recommit on the bill):(8)

Mr. [George E.] Brown [Jr.] of California: Mr. Speaker, I move to recommit the bill H.R. 4515, to the Committee on Armed Services, with instructions to report it back forthwith with an amendment which is at the Clerk's desk.

The Speaker: The Chair will ask if the gentleman is opposed to the bill?

Mr. Brown of California: I am opposed to the bill in its present form, Mr. Speaker.

The Speaker: The Clerk will report the motion to recommit.

The Clerk read as follows: . . .

Mr. Rivers: Mr. Speaker, I move the previous question on the motion to recommit.

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6. 77 Cong. Rec. 198, 73d Cong. 1st Sess.

7. 113 Cong. Rec. 5155, 90th Cong. 1st Sess.

8. *Id.* at p. 5156.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GROSS: I respectfully ask the Speaker if the rule which made this bill in order provided for only one motion to recommit.

THE SPEAKER: The Chair will state it applies to one valid motion to recommit. The other motion was ruled out of order.

The question is on the motion to recommit.

§ 26.10 Where the rule under which a bill is being considered provides for "a motion to recommit with or without instructions," the motion to recommit may contain instructions to report back forthwith amendments notwithstanding the fact that the House has just agreed to the amendment in the nature of a substitute reported from the Committee of the Whole.

On Sept. 29, 1965, the Committee of the Whole reported a bill back to the House, where the Committee had adopted an amendment in the nature of a substitute for the original bill, and where the bill was being considered under a special order providing for a motion to recommit with or without instructions (H. Res. 515). Speaker John W. McCormack, of Massachusetts, indicated in response to parliamentary inquiries that in the event the amendment was agreed to by the House, a motion to recommit could still be offered instructing that the standing committee report the bill back with amendments:[9]

THE SPEAKER: Under the rule, the previous question is ordered.

The question is on the amendment.

MR. [ABRAHAM J.] MULTER [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. MULTER: I am about to ask for the yeas and nays on the Multer amendment, as amended by the Sisk amendment. If that amendment is rejected on the rollcall vote, which I will ask for, will the pending business before the House then be H.R. 4644?

THE SPEAKER: As introduced.

MR. MULTER: Mr. Speaker, on the amendment I demand the yeas and nays.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GERALD R. FORD: If the Multer amendment as amended is defeated, we then go back to H.R. 4644. Is there an opportunity after that to amend or to further consider?

THE SPEAKER: The response to that would be in the negative, because the previous question has been ordered.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, just to get this matter clarified, as I understand the rule, if the Sisk amendment is defeated on the rollcall which is approaching, then we go back to the original first Multer bill, the bill for which the discharge petition was signed. That is the original first bill and there cannot be any vote on any compromise bill. The original Multer bill will then not be subject to further amendment or to any amendment.

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[9] 111 CONG. REC. 25438, 89th Cong. 1st Sess.

THE SPEAKER: It would not be because the previous question has been ordered.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, may I make this parliamentary inquiry?

THE SPEAKER: The gentleman will state it.

MR. ALBERT: Is not what the distinguished gentleman from Virginia said subject to the right of the minority to offer a motion to recommit containing appropriate amendments with or without instructions?

THE SPEAKER: The rule provides for one motion to recommit.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HAYS: That one motion to recommit, depending on who decides to offer it, may be a straight motion to recommit without any instructions, may it not?

THE SPEAKER: It could be.

Motion to Recommit Under Closed Rule

§ 26.11 The Committee on Rules may not report any order or rule which shall operate to prevent the offering of a motion to recommit, but such restriction does not apply to a special rule which may prevent a motion to recommit with instructions to incorporate an amendment in a title where the special rule closes that title to amendment both in the House and in the Committee of the Whole. A special rule prohibiting the offering of amendments to a certain title "during consideration of" the bill (in the House and in Committee of the Whole), thus precluding a motion to recommit with instructions insofar as such title was concerned, was held not to violate the provisions of Rule XI clause 45 (Rule XI clause 4(b) in the 1979 House Rules and Manual).

On Jan. 11, 1934, Mr. William B. Bankhead, of Alabama, called up by direction of the Committee on Rules the following special order:

HOUSE RESOLUTION 217

Resolved, That during the consideration of H.R. 6663, a bill making appropriations for the Executive Office and sundry independent bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1935, and for other purposes, all points of order against title II or any provisions contained therein are hereby waived; and no amendments or motions to strike out shall be in order to such title except amendments or motions to strike out offered by direction of the Committee on Appropriations, and said amendments or motions shall be in order, any rule of the House to the contrary notwithstanding. Amendments shall not be in order to any other section of bill H.R. 6663 or to any section of any general appropriation bill of the Seventy-third Congress which would be in conflict with the provisions of title II of the bill H.R. 6663 as reported to the House, except amendments offered by direction of the Committee on Appropriations, and said amendments shall be in order, any rule of the House to the contrary notwithstanding.[10]

Mr. Bertrand H. Snell, of New York, made a point of order against the resolution on the ground that the Committee on Rules had no right to report a rule denying the right to offer any motion to recommit:

Mr. Snell: Mr. Speaker, I make the point of order against the rule that it is not a privileged report from the Committee on Rules, on the ground that it violates the general rules of the House by denying the right to the minority to make the usual and regular motion to recommit.

After Mr. Snell delivered arguments in support of the point of order, and Mr. Bankhead delivered arguments in opposition to the point of order, Speaker Henry T. Rainey, of Illinois, ruled as follows and discussed the provisions of the special order:

The Speaker: The Chair is prepared to rule. The gentleman from New York makes the point of order that the Committee on Rules has reported out a resolution which violates the provisions of clause 45, rule XI, which are as follows:

> The Committee on Rules shall not report any rule or order . . . which shall operate to prevent the motion to recommit being made as provided in clause 4, rule XVI.

The pertinent language of clause 4, rule XVI is as follows:

> After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or resolution.

The special rule, House Resolution 217, now before the House, does not mention the motion to recommit. Therefore, any motion to recommit would be made under the general rules of the House. The contention of the gentleman from New York that this special rule deprives the minority of the right to make a motion to recommit is, therefore, obviously not well taken. The right to offer a motion to recommit is provided for in the general rules of the House, and since no mention is made in the special rule now before the House it naturally follows that the motion would be in order.

A question may present itself later when a motion to recommit with instructions is made on the bill H.R. 6663 that the special rule which is now before the House may prevent a motion to recommit with instructions which would be in conflict with the provisions of the special rule. It has been held on numerous occasions that a motion to recommit with instructions may not propose as instructions anything that might not be proposed directly as an amendment. Of course, inasmuch as the special rule prohibits amendments to title II of the bill H.R. 6663 it would not be in order after the adoption of the special rule to move to recommit the bill with instructions to incorporate an amendment to title II of the bill. The Chair, therefore, holds that the motion to recommit, as provided in clause 4, rule XVI, has been reserved to the minority and that insofar as such rule is concerned the special rule before the House does not deprive the minority of the right to make a simple motion to recommit. The Chair thinks, however, that a motion to recommit with instructions to incorporate a provision which would be in violation of the special rule, House Resolution 217, would not be in order. For the reasons stated, the Chair overrules the point of order.

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[10] 78 Cong. Rec. 479, 73d Cong. 2d Sess.

See § 26.12, infra, for further discussion of the effect of this special order.

The Speaker further stated, in response to a parliamentary inquiry, that a simple motion to recommit would be in order. Mr. Snell appealed from the decision of the Chair, and the Chair's decision was upheld, 260 yeas to 112 nays.(11)

§ 26.12 A special order prohibiting the offering of amendments to a certain title of a bill during its consideration (in both the House and Committee of the Whole) was held to preclude the right of offering a motion to recommit with instructions to incorporate an amendment in the restricted title.

On Jan. 11, 1934, Mr. William B. Bankhead, of Alabama, called up by direction of the Committee on Rules the following special order:

House Resolution 217

Resolved, That during the consideration of H.R. 6663, a bill making appropriations for the Executive Office and sundry independent bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1935, and for other purposes, all points of order against title II or any provisions contained therein are hereby waived; and no amendments or motions to strike out shall be in order to such title except amendments or motions to strike out offered by direction of the Committee on Appropriations, and said amendments or motions shall be in order, any rule of the House to the contrary notwithstanding. Amendments shall not be in order to any other section of the bill H.R. 6663 or to any section of any general appropriation bill of the Seventy-third Congress which would be in conflict with the provisions of title II of the bill H.R. 6663 as reported to the House, except amendments offered by direction of the Committee on Appropriations, and said amendments shall be in order, any rule of the House to the contrary notwithstanding.

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(11) *Id.* at pp. 479–483.

Mr. Bertrand H. Snell, of New York, made a point of order against the resolution, on the grounds that it would deny the right to offer a motion to recommit with instructions, to include an amendment within the title of the bill closed to amendment. Speaker Henry T. Rainey, of Illinois, overruled the point of order, since the resolution did not deny the right to offer a motion to recommit. He indicated, however, that a certain motion to recommit with instructions would not be in order:

> THE SPEAKER: . . . A question may present itself later when a motion to recommit with instructions is made on the bill H.R. 6663 that the special rule which is now before the House may prevent a motion to recommit with instructions which would be in conflict with the provisions of the special rule. It has been held on numerous occasions that a motion to recommit with instructions may not propose as instructions anything that might not be proposed directly as an amendment. Of course, inasmuch as the special rule prohibits amendments to title II of the bill H.R. 6663 it would not be in order after the adoption of the special rule to move to recommit the bill with instructions to incorporate an amendment to title II of the bill. The Chair, therefore, holds that the motion to recommit, as provided in clause 4, rule XVI, has been reserved to the minority and that insofar as such rule is concerned the special rule before the House does not deprive the minority of the right to make a simple motion to recommit. The Chair thinks, however, that a motion to recommit with instructions to incorporate a provision which would be in violation of the special rule, House Resolution 217, would not be in order.[12]

The rule was then adopted and the bill considered in Committee of the Whole. On Jan. 12, the bill was reported back to the House and the previous question was ordered thereon. Mr. Richard B. Wigglesworth, of Massachusetts, offered a motion to recommit with instructions, to incorporate an amendment in title II of the bill, which had been closed to amendment. Speaker Rainey held that the motion to recommit was not in order under the provisions of House Resolution 217:

> Mr. Wigglesworth moves that the bill be recommitted to the Committee on Appropriations with instructions to report the same back forthwith with an

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[12] 78 CONG. REC. 479, 73d Cong. 2d Sess.

amendment as follows: "Strike out all of paragraph (d) on pages 32 and 33."

Mr. [Clifton A.] Woodrum [of Virginia]: Mr. Speaker, I make a point of order against the motion to recommit.

The Speaker: The gentleman will state it.

Mr. Woodrum: Mr. Speaker, I make the point of order that the motion is in violation of the rule adopted by the House prohibiting amendments to title II of the bill.

The Speaker: Does the gentleman from Massachusetts desire to be heard on the point of order? If not, the Chair is ready to rule.

The gentleman from Massachusetts [Mr. Wigglesworth] offers a motion to recommit with instructions to strike out a portion of title II of the pending bill. The gentleman from Virginia makes the point of order that the motion to recommit with instructions violates the provisions of the special rule (H. Res. 217) under which the House is considering this appropriation bill.

The contention of the gentleman from Virginia is that since, under the special rule it is not in order to offer an amendment by a motion to strike out any part of title II it, therefore, is not in order in a motion to recommit with instructions to effectuate what may not be done directly in the House, to wit, move to strike out any part of title II.

It has been held on a number of occasions that it is not in order to do indirectly by a motion to recommit with instructions that which may not be done directly by way of amendment.

Mr. Speaker Cannon, on March 24, 1910 (Cannon's Precedents, sec. 9597), in deciding a question involving the right to recommit with instructions to incorporate in a general appropriation bill an amendment proposing legislation said:

> This is a motion to recommit with instructions. If the motion had been made in the Committee of the Whole House on the state of the Union as an amendment, or if it had been a provision in the original bill reported by the Committee on Appropriations, it would have been out of order under the rule which has just been read, and which has been a rule of the House for almost 50 years, if not more than 50 years; and under the rules that cannot be done indirectly, by a motion to recommit, which cannot be done directly.
>
> The Chair is not alone in this construction of the rule. There is a uniform line of decisions by every Speaker since the Chair bas been a Member of this House, almost 40 years, beginning with Mr. Speaker Blaine, followed by Mr. Speaker Kerr, Mr. Speaker Randall, Mr. Speaker Keifer, Mr. Speaker Carlisle, Mr. Speaker Reed, Mr. Speaker Crisp, Mr. Speaker Reed again, Mr. Speaker Henderson, and the present Speaker. All, without exception, have made the same ruling; so that the Chair not only has the letter of the rule but an unbroken line of decisions, and these precedents, as well as the letter of the rule, compel the Chair to sustain the point of order. The point of order is sustained. The motion is not in order.

On May 11, 1911, during the consideration of a tariff bill, Mr. James R. Mann, of Illinois, moved to recommit the bill with instructions to insert as a new section certain provisions. Mr. Oscar W. Underwood, of Alabama, made the point of order that the amendment incorporated in the motion to recommit was not germane and therefore not in order. Mr. Speaker Clark, in ruling on the point of order, said:

> It is not necessary for the Chair to pass any opinion on the wisdom of this new rule; it is his duty to decide according to the rules. It is clear that the amendment offered by way of matter contained in the motion to recommit under this rule would not have been in order if offered as an amendment; and on the high authority of Mr. Speaker Reed and Mr. Speaker Cannon, I sustain the point of order made by the gentleman from Alabama.

The Chair could quote many other decisions similar to these he has just read—made by Speaker Clark, Gillett, Longworth, and Garner.

The Chair believes that, inasmuch as the special rule, House Resolution 217, did not permit amendments or motions to strike out any part of title II of the bill either in the Committee of the Whole or in the House during the consideration of this bill, that it would not be in order to do indirectly by way of a motion to recommit that which could not have been done directly in the House.

The Chair on yesterday, in his decision on the point of order raised by the gentleman from New York [Mr. Snell], intimated to the House the construction which he placed on the special rule, insofar as the motion to recommit with instructions is concerned. The Chair on that occasion said:

> A question may present itself later when a motion to recommit with instructions is made on the bill, H.R. 6663, that the special rule which is now before the House may prevent a motion to recommit with instructions, which would be in conflict with the provisions of the special rule. It has been held on numerous occasions that a motion to recommit with instructions may not propose as instructions anything that might not be proposed directly as an amendment. Of course, inasmuch as the special rule prohibits amendments to title II of the bill, H.R. 6663, it would not be in order, after the adoption of the special rule, to move to recommit the bill with instructions to incorporate an amendment in title II of the bill.

The Chair is particularly anxious to refer to the language used by him yesterday, because the opinion expressed there was given before the House took action upon the special rule. All Members were, therefore, advised as to the construction that the Chair would place upon any motion to recommit with instructions which would be in conflict with title II of the pending bill. Inasmuch as the House sustained the interpretation of the rule as expressed by the Chair on yesterday by a vote on the appeal taken by the gentleman from New York, the Chair is constrained to sustain the point of order made by the gentleman from Virginia.[13]

Parliamentarian's Note: The special rule in this case related to the consideration of a general appropriations bill which was privileged for consideration under the general rules of the House. By prohibiting certain amendments "during consideration of" the bill the rule precluded such amendments during all proceedings thereon, in the House and in Committee of the Whole.

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[13] *Id.* at pp. 595, 596.

Where a special rule makes in order a motion to resolve into Committee of the Whole for consideration of a (nonprivileged) bill, provides for the consideration of the bill for amendment under the five-minute rule, and prohibits amendments, that restriction only applies to consideration in Committee of the Whole, and does not prohibit instructions with a motion to recommit in the House to effectuate such amendments, unless the special rule specifically prohibits such amendments "in the House and in the Committee of the Whole."

Two Motions to Recommit

§ 26.13 Under the peculiar circumstances wherein a special rule provided for two motions to recommit, the Chair held that the usual practice with respect to recognition for motions to recommit need not necessarily be followed and in the instant case recognized a member of the majority party to offer the first motion.

On May 3, 1932, the Committee of the Whole reported to the House a bill which was ordered engrossed and read the third time. The special order under which the bill was being considered provided for two motions to recommit. Speaker John N. Garner, of Texas, ruled as follows on recognition for the first motion to recommit:(14)

> MR. [JOHN] McDUFFIE [of Alabama]: Mr. Speaker, I offer a motion to recommit.
>
> THE SPEAKER: The gentleman from Alabama offers a motion to recommit, which the Clerk will report.
>
> MR. [C. WILLIAM] RAMSEYER [of Iowa]: Mr. Speaker, I was on my feet seeking recognition. Under the practice of the House, is not the minority entitled to first recognition? I demand such recognition.
>
> THE SPEAKER: This is a special rule giving the right to make two motions to recommit. In the opinion of the Chair those in control of the bill should have the right to submit the first motion to recommit.
>
> MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, when was any decision ever made that those in control of a bill would have the right to submit the first motion to recommit? Generally those in control of a bill do not submit a motion to recommit.
>
> THE SPEAKER: They certainly have that right under this rule.
>
> MR. SNELL: But the motion to recommit is an entirely different proposition, and the ruling of the Speaker would foreclose the minority from having its rights with respect to such a motion.

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14. 75 CONG. REC. 9512–18, 72d Cong. 1st Sess.

The Speaker: The Chair does not think the minority has that right at all. The rule of the House of Representatives since the present occupant of the chair has been a Member of it has been that in case a motion to recommit is desired to be made the Members in charge of the bill, if the bill has been amended so they can not support it, in the order of their seniority are recognized to submit a motion to recommit.

Mr. Snell: I am very sorry I have to disagree with the distinguished Speaker. That is not my understanding of the rule.

The Speaker: The Chair has recognized the gentleman from Alabama to offer a motion to recommit.

Mr. [**William** B.] **Oliver** [of Alabama]: If the Chair will permit, the Speaker made that announcement when this rule was first offered and there was no objection to it.

The Speaker: Undoubtedly that is the spirit of the rule.

Mr. Snell: I do not agree with the ruling of the Speaker.

The Speaker: The Clerk will report the motion to recommit.

Mr. [**Earl** C.] **Michener** [of Michigan]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Michener: As I understand, the rule permits two motions to recommit.

The Speaker: The gentleman is correct.

Mr. Michener: If the motion which has been offered by the gentleman from Alabama [Mr. McDuffie] fixing the exemption at $2,000, should fail, then would it be in order to offer the staggering plan or the furlough plan with a $2,000 exemption?

The Speaker: It does not make any difference whether the motion fails or not, they have the right to submit two motions to recommit.

Mr. Michener: And recommit the bill twice?

The Speaker: Certainly; that is what the rule provides. As the Chair construes this rule, if the motion of the gentleman from Alabama [Mr. McDuffie] is carried, there would still be opportunity for another motion to recommit.

Mr. Michener: Mr. Speaker, if that is true and if the McDuffie motion carries, the bill is then recommitted forthwith to the committee, there is nothing before the House, and what in the world are we are going to recommit after that has been done?

The Speaker: It may be the House will want to strike out something else.

Mr. [**Charles** R.] **Crisp** [of Georgia]: If the Chair will permit, if the McDuffie motion prevails, the bill will be immediately reported back to the House with the amendment.

The Speaker: Certainly; and another motion to recommit, with respect to some other part of the bill would be in order.

The question is on the motion to recommit.

The question was taken; and there were—yeas 167, nays 225, not voting 39, as follows: . . .

Mr. Ramseyer: Mr. Speaker, I present the following motion to recommit.

The Clerk read as follows:

> Mr. Speaker, I move to recommit the bill, H.R. 11267, to the Committee on Appropriations with instructions to that committee to report it back forthwith with the following amendments:
>
> 1. Strike out sections 101 to 104, both inclusive, of the Economy Committee amendment and insert in lieu thereof the following: . . .

Mr. Ramseyer: On that, Mr. Speaker, I move the previous question.

The previous question was ordered.

The Speaker: The question is on the motion of the gentleman from Iowa to recommit.

Mr. Ramseyer: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 146, nays 250, not voting 35, as follows: . . .

The special rule under which the House was operating was House Resolution 203, reported from the Committee on Rules and adopted on April 27, 1932:

House Resolution 203

Resolved, That after the adoption of this resolution it shall be in order in the consideration of H. R. 11267, the legislative appropriation bill, for the chairman of the Economy Committee or any member of the Economy Committee acting for him, by direction of that committee, to offer an amendment to said bill, any rule of the House to the contrary notwithstanding. On said amendment there shall be two hours of general debate, one-half to be controlled by the chairman of the Economy Committee and one-half by the ranking minority member of that committee. At the termination of such debate the amendment shall be considered under the 5-minute rule as an original bill and shall be considered by titles. Each title as it is read shall be open to four amendments, said amendments not being subject to amendment, and no further amendments shall be entertained by the Chair. The provisions of clause 7, Rule XVI, or clause 2, Rule XXI, shall not apply to the substitute amendment offered to Title I of the Economy Committee amendment. At the conclusion of the consideration of the bill in the Committee of the Whole House on the state of the Union the committee shall rise and report the bill to the House with the amendments, including the amendment offered by the Economy Committee as amended, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the Economy Committee amendment. The previous question shall be considered as ordered on the bill and Economy Committee amendment, including the amendments to the Economy Committee amendment to final passage without intervening motion except two motions to recommit, and such motions to recommit shall be in order, any rule of the House to the contrary notwithstanding.

Mr. [William B.] Bankhead [of Alabama]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Bankhead: Page 2, line 4, after the word

"chair", strike out the period, insert a colon, and add the following:

"*Provided,* That this limitation on the right to offer amendments shall not apply to amendments that may be offered by direction of the Economy Committee."

Waiving Points of Order Against Motion to Recommit

§ 26.14 Where a special rule permits two motions to recommit and makes such motions in order, any rule of the House to the contrary notwithstanding, it was held that instructions in a motion to recommit might propose the striking out of an amendment thereinbefore agreed to by the House.

On Mar. 19, 1935, the House agreed to a special order reported from the Committee on Rules, allowing two motions to recommit on the same bill:(15)

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 3896, "a bill to provide for the immediate payment of World War adjusted-service certificates, to extend the time for filing applications for benefits under the World War Adjusted Compensation Act, and for other purposes"; and all points of order against said bill are hereby waived; that after general debate, which shall be confined to the bill and continue not to exceed 10 hours, to be evenly divided and controlled by the chairman and ranking minority members of the Committee on Ways and Means, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider as substitute amendments for the bill any such amendments that relate to the payment of World War adjusted-service certificates, and such substitute amendments shall be in order, any rule of the House to the contrary notwithstanding. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except two motions to recommit, with or without instructions: *Provided, however,* That if the instructions in such motions relate to the payment of World War adjusted-service certificates, they shall be in order, any rule of the House to the contrary notwithstanding.

On Mar. 22, 1935, the bill so provided for was reported back to the House from the Committee of the Whole and was ordered engrossed and read the third time. Mr. Fred M. Vinson, of Kentucky (a Democrat and member of the majority), was recognized to offer a motion to recommit.(16)

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(15) H. Res. 165, 79 Cong. Rec. 3984, 74th Cong. 1st Sess.

(16) *Id.* at p. 4309.

Mr. Vinson of Kentucky: Mr. Speaker, I move to recommit the bill (H.R. 3896) to the Committee on Ways and Means with instructions to report the same back forthwith with the following amendment: Strike out all after the enacting clause in the said bill and insert the following amendment, which I send to the Clerk's desk.

Mr. Blanton and Mr. Rankin reserved all points of order against the motion to recommit.

The Clerk read as follows:

> Mr. Vinson of Kentucky moves to recommit the bill, H.R. 3896, to the Committee on Ways and Means with instructions to report the same back forthwith with the following amendment: Strike out all after the enacting clause in said bill and insert the following:
>
> "That notwithstanding the provisions of the World War Adjusted Compensation Act, as amended (U.S.C., title 38, ch. 11; U.S.C., Supp. VII, title 38, ch. 11), the adjusted-service certificates issued under the authority of such act are hereby declared to be immediately payable."

Mr. Thomas L. Blanton, of Texas, made a point of order against the motion to recommit and argued in part as follows:(17)

In this connection I want to call the attention of the Chair to the fact that the Patman amendment was submitted in the Committee of the Whole House on the state of the Union as a substitute for the Vinson bill under the proper rules of the House, by moving to strike out the first paragraph of the Vinson bill and offering the Patman bill as an amendment in the way of a substitute, and then giving notice that in case the amendment were adopted the balance of the Vinson bill would be stricken out on motion.

This procedure was followed under the rules of the House. The notice was given, the Patman bill was adopted as a substitute for the Vinson bill in Committee of the Whole House on the state of the Union by a teller vote, following which the gentleman from Texas [Mr. Patman] moved and by unanimous consent had all the balance of the Vinson bill stricken out.

This action was reported to the House itself as soon as the Committee of the Whole House on the state of the Union rose. Then there was a direct vote in the House itself on the Patman amendment, on substituting it for the Vinson bill. The House voted by roll call, and the vote was 202 for the Patman substitute as against 191 for the Vinson bill. And thus the House substituted the Patman bill for the Vinson bill.

Now a motion to recommit, seeking to turn around and switch back the Vinson bill for the Patman bill would undo exactly what the House has already voted. My point of order is this: If the special rule provides to do away with all the rules respecting motions to recommit and if we may have two votes in the House on the identical proposition which has already been decided by the House, then we would be placed in the ridiculous position that after we now vote on the Vinson motion to recommit, to substitute the Vinson bill, which will be the

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17. *Id.* at pp. 4309, 4310.

second time the House has voted on it, and if the House should vote against that, which would be the second time the House had voted it down, then somebody else could again offer a motion to recommit, the second such motion under the special rule, to substitute the Vinson bill, and then we would have the ridiculous situation of the House of Representatives voting three different times in the House on the same proposition.

Speaker Joseph W. Byrns, of Tennessee, overruled the point of order:(18)

The Chair is ready to rule. The pending bill is being considered under a special rule which was unanimously adopted by the House before the bill was taken up for consideration.

It is true, as the gentleman from Texas suggests, that under the ordinary rules of the House only one motion to recommit would be in order. However, the Committee on Rules, after a very long and thorough consideration of the question before the House, and after what the Chair understands to be a general understanding among those for and against either one of the bills decided in the interest of fairness to propose a rule which permitted two motions to recommit.

While it has no bearing upon the ruling of the Chair, the Chair feels that every Member of the House, without regard to his position on this or any other bill pending, understood at the time the rule was proposed by the Committee on Rules, that it would enable the House to express its will with reference to these two bills. The rule was adopted unanimously, and it provided, "That if the instructions in such motion relate to the payment of World War adjusted-service certificates, they shall be in order, any rule of the House to the contrary notwithstanding."

Now, in view of the action of the House in adopting the rule, the Chair thinks, notwithstanding the fact that a vote was taken yesterday on the so-called "Patman bill" and a motion to reconsider laid on the table, it is in order to recognize a Member to offer the Vinson bill in a motion to recommit, even though it may involve a vote for the second time on the Patman bill.

The Chair therefore overrules the point of order.

The motion to recommit offered by Mr. Vinson was rejected. The Speaker then recognized Mr. Allen T. Treadway, of Massachusetts (a Republican and member of the minority), to offer a second motion to recommit with instructions, which was likewise rejected.

Separate Votes in House on Amendments Reported From Committee of the Whole

§ 26.15 Form of resolution permitting a demand in the House for a separate vote in the House on any amendment adopted in Committee of the Whole to the bill or committee substitute, where the

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18. *Id.* at pp. 4310, 4311.

committee amendment in the nature of a substitute has been read as an original bill for the purpose of amendment.

The following resolution was under consideration on June 24, 1964:[19]

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3881) to authorize the Housing and Home Finance Administrator to provide additional assistance for the development of comprehensive and coordinated mass transportation systems in metropolitan and other ubran areas, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on Banking and Currency now in the bill and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instuctions. After the passage of the bill H.R. 3881, it shall be in order in the House to take from the Speaker's table the bill S. 6 and to move to strike out all after the enacting clause of said Senate bill and to insert in lieu thereof the provisions contained in H.R. 3881 as passed by the House.

§ 26.16 Form of resolution allowing separate vote in House on single-section committee amendment in nature of substitute (not read for amendment as original bill).

The following resolution was under consideration on Sept. 13, 1973:[1]

H. Res. 544

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of Rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on that State of the Union for the consideration of the bill (H.R. 9553) to amend the Communications Act of 1934 for one year with regard to the broadcasting of certain professional home games. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 9553, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1841, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 9553 as passed by the House.

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[19] H. Res. 732, 110 Cong. Rec. 14897, 88th Cong. 2d Sess.

[1] 119 Cong. Rec. 29713, 93d Cong. 1st Sess.

§ 26.17 Under a special procedure permitting a demand in the House for a separate vote on an amendment adopted to an amendment in the nature of a substitute for a bill reported from Committee of the Whole, the Speaker inquires whether a separate vote is demanded before putting the question on the amendment in the nature of a substitute.

On Mar. 8, 1973, Speaker Carl Albert, of Oklahoma, proceeded as follows where a bill had been reported back from the Committee of the Whole and where the rule governing the consideration of the bill (H. Res. 274) permitted separate votes on amendments adopted in Committee of the Whole to the committee amendment in the nature of a substitute:(2)

> The Speaker: Under the rule, the previous question is ordered.
>
> Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.
>
> The amendment was agreed to.

§ 26.18 Where a special rule permits a separate vote in the House on an amendment to a committee amendment in the nature of a substitute adopted in Committee

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2. 119 Cong. Rec. 7138, 93d Cong. 1st Sess.

of the Whole, a Member must make a timely demand for a separate vote before the question is taken on the committee substitute.

On Sept. 20, 1972, H.R. 15003 (to protect consumers) was reported back to the House from the Committee of the Whole, wherein an amendment to the committee amendment in the nature of a substitute had been agreed to. The bill was being considered under a special order (H. Res. 1116) permitting a separate vote in the House on any amendment adopted to the bill or to the committee amendment in the nature of a substitute in Committee of the Whole. Speaker Carl Albert, of Oklahoma, ruled that a demand for a separate vote on an amendment came too late:[3]

THE SPEAKER: Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

MR. [JOHN E.] MOSS [of California]: Mr. Speaker, I demand a separate vote on the amendment offered by the gentleman from Indiana (Mr. Dennis).

THE SPEAKER: Without objection, the action by which the amendment was agreed to is rescinded.

MR. [DAVID W.] DENNIS: Mr. Speaker, reserving the right to object, my understanding is that the amendment was agreed to and that the gentleman's request comes too late.

THE SPEAKER: The Chair was under the impression that no separate vote was demanded and put the question on adoption of the amendment.

The Chair put as a unanimous consent request, that the action by which the amendment was agreed be rescinded.

MR. DENNIS: I object.

THE SPEAKER: Objection is heard.

MR. DENNIS: I object because the amendment has been adopted.

THE SPEAKER: The question is on the engrossment and third reading of the bill.

§ 26.19 Where a committee amendment in the nature of a substitute is amended in Committee of the Whole by the adoption of a substitute and is reported to the House under a special procedure permitting a separate vote in the House on any amendment to the committee amendment, the House is faced with three possible versions of the bill (the substitute, the committee amendment, or the text of the bill as introduced), but amendments reported from Committee of the Whole are not subject to amendment in the House where, pursuant to the resolution under which the bill is being con-

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[3] 118 CONG. REC. 31409, 92d Cong. 2d Sess.

sidered, the previous question has been ordered.

On June 16, 1970, the House was considering House Resolution 1077, a resolution reported from the Committee on Rules and called up by Mr. William M. Colmer, of Mississippi, providing for the consideration of a bill:

H. Res. 1077

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 17070) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 17966 as a substitute for the said committee amendment. At the conclusion of the consideration of H.R. 17070 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.[4]

Speaker pro tempore Carl Albert, of Oklahoma, answered parliamentary inquiries on procedures for voting in the House on amendments reported from Committee of the Whole pursuant to the provisions of the special order, which made in order the committee amendment in the nature of a substitute and also made in order a substitute amendment to such amendment:

Mr. [Arnold] Olsen [of Montana]: Mr. Speaker, I should like to have attention while I make a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state his parliamentary inquiry.

Mr. Olsen: The parliamentary inquiry is: If the Udall bill is passed by the Committee of the Whole and we go into the House and then the Udall bill is voted down in the House, is it correct that the only thing left we would have would be the original Blount bill, the original H.R. 17070?

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[4] 116 Cong. Rec. 19837, 91st Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: In response to the inquiry, the committee amendment in the nature of a substitute would immediately be under consideration. Of course, it would not be subject to amendment.

MR. OLSEN: That is something I wanted to get straight, that the committee bill as amended would not be subject to amendment.

THE SPEAKER PRO TEMPORE: The previous question having been ordered, it would not be subject to amendment.

MR. OLSEN: So, Mr. Speaker, Members who have amendments to the committee bill, who want to amend H.R. 17070, should give attention to the fact that they will not have an opportunity to amend it if the Udall substitute is defeated in the House.(5)

§ 26.20 Normally, if the Committee of the Whole perfects a proposition by amendments and then adopts an amendment striking out all after section one of the proposition and inserting a new text [in effect, a substitute for the whole proposition], only the proposition, as amended by the amendment in the nature of a substitute, is reported to the House; but when the bill is being considered under a special rule permitting a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or the committee substitute, all amendments adopted in the Committee of the Whole are reported to the House, regardless of their inconsistency, and the House may vote on an amendment which will be eliminated if the House agrees to the substitute finally adopted in the Committee of the Whole.

On May 26, 1960, the Committee of the Whole reported to the House a bill, where the special order (H. Res. 536) governing the consideration of the bill provided that separate votes could be demanded in the House on any amendment adopted in Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. Speaker Sam Rayburn, of Texas, answered parliamentary inquiries on the procedure of demanding and putting separate votes:(6)

MR. [STEWART L.] UDALL [of Arizona]: I believe that under the rule this is the proper time to demand separate votes on amendments. There are three

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5. *Id.* at p. 19842.

6. 106 CONG. REC. 11302, 86th Cong. 2d Sess.

amendments on which I desire a separate vote.

The Speaker: It is. The gentleman will state the amendments on which he desires a separate vote.

Mr. Udall: The Elliott amendment, the Powell amendment, and the Bow amendment.

The Speaker: The Clerk will report the first amendment on which a separate vote is demanded.

Mr. [Frank T.] Bow [of Ohio]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Bow: The so-called Bow amendment struck out the entire bill. I am wondering whether that would not have the effect of taking out the Elliott amendment and the Powell amendment so that the only vote would be on the Bow amendment.

The Speaker: That depends.

Mr. [John James] Flynt [Jr., of Georgia]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Flynt: I would like advice as to whether it would not be proper for the Clerk at this time to read the Bow substitute as adopted by the Committee of the Whole.

The Speaker: It will be at the proper time. The other amendments will be voted upon first.

Mr. [Cleveland M.] Bailey [of West Virginia]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Bailey: The so-called Bow amendment was brought into the picture irregularly in that it was a substitute for another amendment.

The Speaker: It was an amendment to the committee amendment.

Mr. Bailey: It was subject to a point of order.

The Speaker: It is not now.

The Clerk will report the so-called Elliott amendment.

The Clerk read as follows: . . .

Mr. [William M.] Colmer [of Mississippi]: Mr. Speaker, does not the first vote occur upon a substitute or the Bow amendment?

The Speaker: It does not. It was an amendment to an amendment.

Mr. Colmer: Mr. Speaker, what is the first order?

The Speaker: The first order is the vote on the amendment that the Clerk has just reported.

Mr. [Graham A.] Barden [of North Carolina]: Mr. Speaker, I believe it would be of great interest to the Members of the House to clarify the first amendment, the second amendment, and the third amendment in the order in which they will be taken up.

The Speaker: Each amendment will be reported when the proper time comes. The first on the list is the Elliott amendment.

Mr. Barden: Mr. Speaker, what effect will the Bow amendment have on the other amendments that will be voted on?

The Speaker: If the Bow amendment is agreed to it will strike out the other two amendments.

Mr. Barden: It strikes out the Elliott amendment and the Powell amendment?

The Speaker: That is correct.

Parliamentarian's Note: For further discussion of the three amendments, their relation to one another, and the order in which voted on in the House, see § 26.22, infra.

§ 26.21 Where a committee amendment in the nature of a substitute is reported from the Committee of the Whole with various amendments thereto, and, under a rule permitting such procedure, separate votes are demanded in the House on several of the amendments to the substitute amendment, the Chair puts the question first on those amendments on which a separate vote is demanded, then on the amendment, as amended; the Chair does not put the question on the remaining amendments to the amendment but proceeds immediately to the vote on the amendment in the nature of a substitute.

On Oct. 6, 1966, the Committee of the Whole reported back to the House a bill, where the special order (H. Res. 1025) under which the bill was being considered permitted separate votes in the House on any amendment adopted to the bill or to the committee amendment in the nature of a substitute. The Committee of the Whole had adopted the committee amendment with amendments. The following procedure took place in the House when separate votes were demanded:(7)

THE SPEAKER:(8) Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

MR. [JAMES G.] O'HARA of Michigan: Mr. Speaker, I demand a separate vote on the Fountain amendment which appears on page 63 of the bill, after line 9.

THE SPEAKER: Is a separate vote demanded on any other amendment?

MR. [PAUL A.] FINO [of New York]: Mr. Speaker, I demand a separate vote on the O'Hara amendment, the antibusing amendment. . . .

THE SPEAKER: It is the Chair's recollection that the gentleman from Michigan [Mr. O'Hara] offered one amendment covering four sections of the bill. Later he offered another, intended to cover the fifth section. . . .

Does the gentleman from New York demand a separate vote on both of the amendments?

MR. FINO: Mr. Speaker, I do, to eliminate any confusion.

THE SPEAKER: Is a separate vote demanded on any other amendment?

MR. O'HARA of Michigan: Mr. Speaker, I ask unanimous consent that the two amendments on which the gentleman from New York has asked for a separate vote be voted en bloc.

THE SPEAKER: Is there objection to the request of the gentleman from Michigan?

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7. 112 CONG. REC. 25585–87, 89th Cong. 2d Sess.
8. John W. McCormack (Mass.).

There was no objection.

THE SPEAKER: Is a separate vote demanded on any other amendment?

If not, the Clerk will report the first amendment on which a separate vote has been demanded.

The Clerk read [the Fountain amendment] as follows: . . .

THE SPEAKER: The question is on the amendment.

MR. O'HARA of Michigan: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 221, nays 116, not voting 95, as follows: . . .

THE SPEAKER: The Clerk will report the so-called O'Hara amendments on which a separate vote has been demanded.

The Clerk read as follows: . . .

THE SPEAKER: The question is on the amendments.

MR. FINO: Mr. Speaker, on this vote I demand the yeas and nays.

THE SPEAKER: Members in favor of taking this vote by the yeas and nays will rise and remain standing until counted. [After counting.] Fifty-six Members have arisen, not a sufficient number.

The yeas and nays were refused.

MR. FINO: Mr. Speaker, I ask for tellers.

Tellers were ordered, and the Speaker appointed Mr. O'Hara of Michigan and Mr. Fino as tellers.

The House divided, and the tellers reported that there were—ayes 263, noes 5.

So the amendments were agreed to.

THE SPEAKER: The question is on the amendment as amended.

The amendment, as amended, was agreed to.

THE SPEAKER: The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

§ 26.22 Where the Committee of the Whole had agreed to (1) an amendment to section 4 of an amendment in the nature of a substitute, (2) then an amendment to section 6, (3) then an amendment striking out all after section 1 and inserting new text, and (4) then to the committee amendment in the nature of a substitute, as amended, the amendments were voted on in the House, under a special rule permitting separate votes on any amendments adopted in the Committee of the Whole to either the bill or the committee amendment in the nature of a substitute, in the order in which adopted thus following the rule that an amendment in the nature of a substitute is always perfected before a vote is taken on a substitute amendment therefor.

On May 26, 1960, the Committee of the Whole was considering H.R. 10128 (to authorize assistance for school construction) pursuant to a special order (H. Res. 536) providing that the committee amendment in the nature of a substitute be read as an original bill for amendment, and allowing a separate vote in the House on any amendment adopted in Committee of the Whole to the bill or to the amendment in the nature of a substitute. In Committee of the Whole, four amendments were adopted in the following order:[9]

[To § 4 of the committee amendments]

MR. [CARL A.] ELLIOTT of Alabama: Mr. Chairman, I offer an amendment, which is at the desk.

The Clerk read as follows:

> Amendment offered by Mr. Elliott of Alabama: Page 13, strike out lines 5 through 12, and insert the following: . . .

MR. ELLIOTT of Alabama: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Elliott of Alabama and Mr. Kearns.

The Committee again divided and the tellers reported that there were—ayes 130, noes 112.

So the amendment was agreed to.

[To § 6 of the committee amendment]

MR. [ADAM C.] POWELL [Jr., of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Powell: Page 18, line 4, after section 6(a) insert:
>
> "7. The school facilities constructed with the assistance of payments received under this act shall be available to students without regard to race, creed, color, national origin, or religion, in accordance with the decisions of the United States Supreme Court.". . .

THE CHAIRMAN:[10] The question is on the amendment offered by the gentleman from New York [Mr. Powell].

The question was taken; and on a division (demanded by Mr. Powell) there were—ayes 126, noes 108.

MR. [FRANK] THOMPSON [Jr.] of New Jersey: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Powell and Mr. Thompson of New Jersey.

The Committee again divided, and the tellers reported that there were—ayes 151, noes 103.

So the amendment was agreed to.

[Substitute striking all after title of committee amendment]

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Bow of Ohio: On page 11, line 20, after "Sec. 2." strike out all after section 1 and insert in lieu thereof the following:
>
> "(a) The Congress hereby finds and declares that responsibility for and control over education is one of the powers not delegated to the

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[9] 106 CONG. REC. 11282–302, 86th Cong. 2d Sess.

[10] Aime J. Forand (R.I.).

United States but reserved to the States or to the people under the tenth amendment to the Constitution.

"(b) The Congress hereby reaffirms and reenacts a portion of Article III of the Ordinance of 1787, adopted by the Confederation Congress, July 13, 1787, as follows: 'Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.'

"(c) The Congress further finds that continued encouragement of the means of education requires the strengthening of State governments.

"Sec. 3. (a) There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, for the fiscal year beginning July 1, 1960, and for each fiscal year thereafter, to each State, to be used by such State for construction of public schools, an amount equal to 25 per centum of the Federal tax on cigarettes (computed as provided in this Act) collected on cigarettes sold within such State during the preceding fiscal year.

"(b) For the purpose of determining the amount authorized to be appropriated for payments under the provisions of this section, the Secretary of the Treasury shall estimate the number of cigarettes sold in each State in each fiscal year on the basis of such statistics as may be available.

"(c) For the purposes of this section the term 'State' includes the District of Columbia.". . .

The Chairman: The question is on the amendment offered by the gentleman from Ohio [Mr. Bow].

The question was taken; and the Chairman being in doubt, the Committee divided.

The Chairman: On this vote by a division the ayes are 121, and the noes 121. The Chair votes no, so the noes are 122.

Mr. Bow: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Bow and Mr. Roosevelt.

The Committee again divided and the tellers reported that there were—ayes 154, noes 129.

So the amendment was agreed to.

[Committee amendment as amended]

The Chairman: The question is on the committee amendment as amended.

The committee amendment as amended was agreed to.

The Chairman: Under the rule the Committee rises.

When the Committee rose and reported the bill back to the House with amendments adopted in Committee of the Whole, Speaker Sam Rayburn, of Texas, answered parliamentary inquiries on the procedure for voting on amendments adopted to the committee amendment in the nature of a substitute:(11)

Mr. [Stewart L.] Udall [of Arizona]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

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11. 106 Cong. Rec. 11302, 86th Cong. 2d Sess.

Mr. Udall: I believe that under the rule this is the proper time to demand separate votes on amendments. There are three amendments on which I desire a separate vote.

The Speaker: It is. The gentleman will state the amendments on which he desires a separate vote.

Mr. Udall: The Elliott amendment, the Powell amendment, and the Bow amendment.

The Speaker: The Clerk will report the first amendment on which a separate vote is demanded.

Mr. Bow: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Bow: The so-called Bow amendment struck out the entire bill. I am wondering whether that would not have the effect of taking out the Elliott amendment and the Powell amendment so that the only vote would be on the Bow amendment.

The Speaker: That depends.

Mr. [John James] Flynt [Jr., of Georgia]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Flynt: I would like advice as to whether it would not be proper for the Clerk at this time to read the Bow substitute as adopted by the Committee of the Whole.

The Speaker: It will be at the proper time. The other amendments will be voted upon first.

Mr. [Cleveland M.] Bailey [of West Virginia]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Bailey: The so-called Bow amendment was brought into the picture irregularly in that it was a substitute for another amendment.

The Speaker: It was an amendment to the committee amendment.

Mr. Bailey: It was subject to a point of order.

The Speaker: It is not now.

The Clerk will report the so-called Elliott amendment. . . .

Mr. [William M.] Colmer [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Colmer: Mr. Speaker, does not the first vote occur upon a substitute or the Bow amendment?

The Speaker: It does not. It was an amendment to an amendment.

Mr. Colmer: Mr. Speaker, what is the first order?

The Speaker: The first order is the vote on the amendment that the Clerk has just reported.

Mr. [Graham A.] Barden [of North Carolina]: Mr. Speaker, I believe it would be of great interest to the Members of the House to clarify the first amendment, the second amendment, and the third amendment in the order in which they will be taken up.

The Speaker: Each amendment will be reported when the proper time comes. The first on the list is the Elliott amendment.

Mr. Barden: Mr. Speaker, what effect will the Bow amendment have on the other amendments that will be voted on?

THE SPEAKER: If the Bow amendment is agreed to it will strike out the other two amendments.

MR. BARDEN: It strikes out the Elliott amendment and the Powell amendment?

THE SPEAKER: That is correct.

The House rejected the Elliott amendment, adopted the Powell amendment, and rejected the Bow amendment.(12)

§ 27. Senate Bills and Amendments; Conference Reports

Order of business resolutions reported from the Committee on Rules and pertaining to Senate bills, amendments between the Houses, and conferences, may take a number of different forms, because of the possible variations in the parliamentary situation. Where it is desired to take up and consider a Senate-passed bill, without first considering and passing a similar bill introduced in the House, the Committee on Rules may report a resolution making in order the consideration of the Senate bill and providing procedures for its consideration. Such a resolution may provide for the consideration of a Senate bill on the Speaker's table, or a Senate bill referred to and reported by a House committee and on the Calendar, or a Senate bill referred to committee and not yet reported.(13)

On most occasions, however, the House first considers and passes a bill introduced in the House, and then substitutes the text of the House-passed bill for the text of a similar Senate bill if previously messaged to the House. The language of the special order, providing for such a procedure, will depend on whether the Senate measure is on the Speaker's table or must be discharged from the House committee,(14) and whether the Senate bill is identical, or merely similar, to the House reported bill.

Certain measures, such as general appropriation bills, should originate in the House (see Ch. 13, supra, for the prerogatives of the House).

Senate amendments to a House bill usually require consideration in Committee of the Whole,(15) and are thus not privileged for consideration in the House unless the stage of disagreement has been reached. Likewise, House amendments to Senate

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12. *Id.* at pp. 11302, 11303.

13. For example, see §§ 27.1–27.7, infra.

14. See §§ 27.8–27.11, infra.

15. See Rule XX clause 1, *House Rules and Manual* § 827 and Rule XXIII clause 3, *House Rules and Manual* § 865 (1979).

bills, after passage of the Senate bill as amended, are not subject to disposition in the House by privileged motion until the stage of disagreement is reached. Such measures may be brought up and disposed of by unanimous consent, by suspension of the rules, by a resolution reported from the Committee on Rules, by a privileged motion sending the bill to conference by direction of the committee with jurisdiction,(16) or, with respect to Senate amendments, by the Speaker's action in referring the bill to a standing committee.(17)

Resolutions from the Committee on Rules may take from the Speaker's table House bills with Senate amendments or Senate bills with House amendments and direct any disposition which is desired, including agreeing to or requesting a conference with the Senate.(18)

Under Rule XXVIII,(19) conference reports themselves are privileged for consideration, after a three-day layover, but a resolution from the Committee on Rules may make in order the consideration of a conference report on the same day on which reported or any day thereafter, or may alter the method of consideration.(20) And defects in a conference report which would subject the report to a point of order in the House, or motions to be proposed on amendments reported in disagreement, which motions would be subject to points of order, may be cured by the provisions of a special order waiving points of order.(1)

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16. See Rule XX clause 1, *House Rules and Manual* § 827 (1979).
17. See Cannon's Procedure in the U.S. House of Representatives, p. 117 (1959). The Speaker rarely makes such a reference.
18. For taking House bill with Senate amendment from the table, see §§ 27.12–27.14, infra; for concurring in Senate amendments to a House bill, see §§ 27.15–27.20, infra; for concurring with amendments, see §§ 27.21, 27.22, infra; for disagreeing to Senate amendments to House bill and going to conference, see §§ 27.23–27.26, infra; for disagreeing in part, concurring in part and going to conference, see § 27.27, infra; for insisting upon House amendment to Senate bill, see §§ 27.28–27.30, infra; for sending to conference generally, see § 27.31, infra.

    For a resolution sending a bill to conference and allowing the House conferees to agree to any Senate amendment, notwithstanding Rule XX clause 2, *House Rules and Manual* § 829 (1979), see § 27.24, infra.
19. *House Rules and Manual* §§ 909, 912, (1979).
20. See §§ 27.32–27.35, 27.37, 27.38, infra.
1. See §§ 27.40–27.45. A conference report which has been called up and held out of order may be brought up again under the provisions of a special rule waiving points of order. See § 27.43, infra.

By analogy to the principle that the Committee on Rules may recommend making in order the consideration of a bill which has not even been introduced, the committee may recommend making in order a conference report where the conference committee has not yet met or reported.[2]

In certain situations, a conference report may be protected from a point of order because of the provisions of the special order which governed the consideration of the bill in the House. For example, waiving points of order against unauthorized appropriations in a bill being considered in the House carries over to the conference report on the bill, since conferees under Rule XX clause 2 are only prohibited from agreeing to provisions which would have been subject to a point of order in the House under Rule XXI clause 2 during original consideration of the bill. Thus, conference reports may contain the unauthorized provisions (or modifications thereof) originally protected by the waiver of points of order.[3]

Cross References

As to bill passage procedure generally, see Ch. 24, infra.

As to amendments between the Houses, see Ch. 32, infra.

As to conferences and conference reports, see Ch. 33, infra.

As to suspension of the rules in relation to amendments between the Houses and conference reports, see § 9, supra.

Making in Order and Providing for Consideration of Senate Bill

§ 27.1 Form of resolution providing for consideration in Committee of the Whole of a Senate bill at the Speaker's desk (the Legislative Reorganization Act of 1946) and making in order as an amendment in the nature of a substitute the provisions contained in a committee print previously inserted in the Congressional Record.

The following resolution, reported from the Committee on Rules, was under consideration on July 25, 1946:[4]

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2177) to provide for increased efficiency in the legislative branch of the Government, and all points of order against said bill are

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[2] See § 27.34, infra.

[3] See § 27.36, infra.

[4] H. Res. 717, 92 Cong. Rec. 10037, 79th Cong. 2d Sess.

hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed two hours, to be equally divided and controlled by the gentleman from Oklahoma, Mr. Monroney, and the gentleman from Michigan, Mr. Michener, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order as a substitute for the bill the provisions contained in the committee print of July 20, 1946, and printed in the *Congressional Record* of July 19, 1946, page 9496, and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Parliamentarian's Note: The committee print of July 20, 1946, was the product of an informal special committee on the reorganization of Congress, without legislative jurisdiction.

§ 27.2 Form of special rule providing for the consideration of a Senate bill, waiving points of order against said bill and directing that a committee substitute amendment for said bill shall be considered under the five-minute rule as an original bill without intervention of any point of order.

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 18, 1937:(5)

House Resolution 320

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of S. 1685, an act to provide financial assistance to the States and political subdivisions thereof for the elimination of unsafe and insanitary housing conditions, for the eradication of slums, for the provision of decent, safe, and sanitary dwellings for families of low income, and for the reduction of unemployment and the stimulation of business activity, to create a United States Housing Authority, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill, and continue not to exceed 3 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read

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5. 81 Cong. Rec. 9234, 75th Cong. 1st Sess.

for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Banking and Currency now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

§ 27.3 Form of resolution providing for the consideration of a Senate joint resolution in the House as in the Committee of the Whole and authorizing general debate prior to reading for amendment under the five-minute rule.

The following resolution, reported from the Committee on Rules, was under consideration on Jan. 6, 1937:(6)

> *Resolved*, That upon the adoption of this resolution the House as in the Committee of the Whole House on the state of the Union shall consider the joint resolution, Senate Joint Resolution 3; that there shall be not to exceed 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, whereupon the joint resolution shall be read for amendment under the 5-minute rule.

§ 27.4 By unanimous consent, the House considered a Senate bill under the terms of a resolution adopted for consideration of a House bill.

On Mar. 12, 1959,(7) the House agreed to a unanimous-consent request that it be in order to consider a Senate bill (to provide for the admission of the State of Hawaii into the Union) under the provisions of a special order adopted on a previous day, for the consideration of a House bill on the same subject:

> MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I renew my unanimous-consent request, heretofore made, that it may be in order for the House to consider the bill S. 50, in lieu of the bill H.R. 4221, under the terms and provisions of House Resolution 205 adopted yesterday by the House in relation to the Hawaiian statehood bill.

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6. H. Res. 44, 81 CONG. REC. 90, 75th Cong. 1st Sess. The Senate joint resolution, prohibiting the exportation of arms and ammunition to Spain during the Spanish Civil War, had been reported from committee and referred to the Union Calendar.

7. 105 CONG. REC. 4005, 86th Cong. 1st Sess.

The Speaker:[8] Is there objection to the request of the gentleman from Massachusetts?

Mr. [John R.] Pillion [of New York]: Mr. Speaker, I do not renew my previous objection.

There was no objection.

§ 27.5 Instance where, since a private Senate bill resulting in the expenditure of public funds [and thus requiring consideration in the Committee of the Whole House] is not privileged and cannot be taken from the Speaker's table for direct action by the House, the House adopted a resolution taking the bill from the table and providing for its consideration in Committee of the Whole House on the state of the Union.

On Mar. 14, 1961, the House agreed to a resolution reported from the Committee on Rules providing for the consideration of a private Senate bill on the Speaker's table:[9]

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1173) to authorize the appointment of Dwight David Eisenhower to the active list of the Regular Army, and for other purposes. After general debate, which shall be confined to the bill, and shall continue not to exceed one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Parliamentarian's Note: A private Senate bill requiring consideration in the Committee of the Whole House, engrossed and sent to the House after a similar House bill has been reported and referred to the Private Calendar, is not privileged. A similar private House bill (H.R. 5174) had been reported to the House.

§ 27.6 The House adopted a special order taking two Senate bills from the Speaker's table (where such bills required consideration in Committee of the Whole); amending each bill by identical amendments in the nature of a substitute; providing that each Senate bill be considered as read a third time and passed; amending titles of both Senate bills; providing

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[8] Sam Rayburn (Tex.).

[9] H. Res. 224, 107 Cong. Rec. 3911, 87th Cong. 1st Sess.

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that the House insist on each amendment, request conferences with the Senate on each bill, and that the Speaker appoint conferees on the part of the House to attend each such conference.

On Nov. 18, 1971, a special order was called up by direction of the Committee on Rules for the consideration of two Senate bills:

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 710 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 710

Resolved, That immediately upon the adoption of its resolution and without the intervention of any point of order the bills of the Senate S. 2819 and S. 2820 are hereby taken from the Speaker's table; that said Senate bills are hereby amended by striking out all after the enacting clause of each such Senate bill and inserting in lieu thereof the text of the bill H.R. 9910 as passed by the House on August 3, 1971; that the said Senate bills as so amended shall be considered as read a third time and passed; that the title of each such Senate bill shall be amended by striking out such title and inserting in lieu thereof the title of H.R. 9910; that the House insists upon its amendments to each Senate bill and requests conferences with the Senate, and that the Speaker appoint managers on the part of the House to attend each such conference.(10)

Mr. Bolling explained the purpose and unprecedented nature of the special order:

Mr. Speaker, some say that this rule is without precedent. I have not searched the precedents. I do not know. But I do know it is a very unusual rule, and I think it deserves explanation so that the Members who are interested will know what the rule does and what its significance is. Those who listened to the rule will know that, if the resolution is adopted by the House, the House action will be as follows: The House will take two Senate bills on foreign aid, one on foreign economic assistance and one on foreign military assistance, from the Speaker's table. It will amend each of those bills by striking out all after the enacting clause and putting in each of them the text of the bill that the House debated, amended, and passed on the 3rd of August 1971, and it will then send the matters, the two bills, to conference.

The resolution provides that the Speaker can appoint conferees.

What this does, in very frank terms, is to get before a conference the two Senate bills and the House-passed bill. Most of you will remember that the bill passed the House, went to the Senate, it was debated at length, amended and defeated. Then the Senate came back with two separate bills, which were passed by very substantial majorities.

The House adopted the resolution.

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(10) 117 CONG. REC. 42046, 42047, 92d Cong. 1st Sess.

Discharging Committee From Consideration of Senate Bill

§ 27.7 Form of resolution providing for the discharge of a House committee from further consideration of a Senate bill [similar to a House bill pending on the Union Calendar] and for its immediate consideration under an "open" rule.

The following resolution, reported from the Committee on Rules, was under consideration on Mar. 17, 1970:[11]

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Substituting Text of House-passed Bill for Text of Senate-passed Bill

§ 27.8 Form of resolution providing for consideration of a House bill, and after passage discharging a House committee from further consideration of a Senate bill, and making in order a motion to strike out all after the enacting clause of the Senate bill and inserting in lieu thereof the provisions of the House bill as passed by the House.

The following resolution, reported from the Committee on Rules, was under consideration on Sept. 3, 1969:[12]

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7621) to amend the Federal Hazardous Substances Act to protect children from toys and other articles intended for use by children which are hazardous due to the presence of electrical, mechanical, or thermal hazards, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 7621, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1689, and it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 7621 as passed by the House.

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[11] H. Res. 874, 116 Cong. Rec. 7691, 91st Cong. 2d Sess.

[12] H. Res. 516, 115 Cong. Rec. 24004, 24005, 91st Cong. 1st Sess.

As a further example, the following resolution, reported from the Committee on Rules, was considered on Sept. 24, 1969:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 850) to designate the Desolation Wilderness, Eldorado National Forest, in the State of California. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 850, the Committee on Interior and Insular Affairs shall be discharged from the further consideration of the bill S. 713, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 850 as passed by the House.(13)

§ 27.9 Form of resolution providing for consideration of a bill; providing that after passage of the House bill, the legislative committee be discharged from consideration of a similar Senate bill

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13. H. Res. 543, 115 Cong. Rec. 26898, 26899, 91st Cong. 1st Sess.

and the House-passed language substituted as an amendment for all after the enacting clause therein; and making in order a motion that the House insist on its amendments to the Senate bill and a request for a conference, and authorizing the Speaker to appoint conferees on the part of the House.

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 11, 1959:[14]

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 8342, a bill to provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed six hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.
>
> That after the passage of H.R. 8342, the Committee on Education and Labor shall be discharged from the further consideration of the bill, S. 1555; that it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 8342 as passed; that it shall then be in order to move that the House insist upon its amendment to said Senate bill S. 1555 and request a conference with the Senate; and that the Speaker shall thereupon appoint the conferees on the part of the House.

§ 27.10 The House agreed to a resolution providing for the consideration of a bill reported from the Committee on Merchant Marine and Fisheries, making it in order, after passage, to take from the Speaker's table a similar Senate bill which, under the precedents, would have fallen within the jurisdiction of the Committee on Interior and Insular Affairs had it been referred to committee, and to insert the

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[14] H. Res. 338, 105 Cong. Rec. 15512, 86th Cong. 1st Sess.

House language as an amendment.

On Sept. 23, 1969, the House agreed to a special order, called up by Mr. Spark M. Matsunaga, of Hawaii, by direction of the Committee on Rules, which resolution made in order the consideration of a bill reported by the Committee on Merchant Marine and Fisheries; the resolution also provided for the disposition of a Senate bill after passage of the House bill:[15]

H. Res. 544

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12549) to amend the Fish and Wildlife Coordination Act to provide for the establishment of a Council on Environmental Quality, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 12549, it shall be in order in the House to take from the Speaker's table the bill S. 1075 and to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof of provisions contained in H.R. 12549 as passed by the House.

Parliamentarian's Note: The Senate bill (S. 1075) which the resolution provided for taking from the Speaker's table was properly within the jurisdiction of the Committee on Interior and Insular Affairs in the House. Accommodation had been reached in the House, however, in order that certain amendments would be offered to the House bill on behalf of the Committee on Interior and Insular Affairs.

§ 27.11 A resolution making in order the disposition of a Senate bill on the Speaker's table after passage of a House bill reported by the Committee on Post Office and Civil Service, was amended to delete all reference to the Senate bill, and the Senate bill was then referred to the Committee on Banking and Currency.

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[15] 115 Cong. Rec. 26569, 91st Cong. 1st Sess.

On Sept. 9, 1970,(16) Mr. Spark M. Matsunaga, of Hawaii, offered by direction of the Committee on Rules a special order providing for the consideration of a House bill and providing for the disposition of a similar Senate bill on the Speaker's table. He offered an amendment recommended (but not reported) by the Committee on Rules deleting the provision for disposition of the Senate bill:

Mr. Matsunaga: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1046 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1046

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16542) to amend title 39, United States Code, to regulate the mailing of unsolicited credit cards, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 16542, it shall then be in order in the House to take from the Speaker's table the bill S. 721 and to move to strike all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 16542 as passed by the House.

The Speaker:(17) The gentleman from Hawaii is recognized for 1 hour.

Mr. Matsunaga: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Matsunaga: On page 2, strike out all of the last sentence, beginning with "After the passage of" in line 6 and ending with the period in line 11.

Mr. Smith's remarks on the bill explained the purpose of the amendment to the special order:(18)

Mr. [H. Allen] Smith of California: Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, in the interest of saving time I will say that the gentleman from Hawaii (Mr. Matsunaga) has adequately explained this bill and I will extend my remarks on the rule.

Mr. Speaker, I commend the gentleman from Illinois (Mr. Erlenborn) for bringing to our attention a matter which I have been more or less fussing about for the last year; that is, the language which we have agreed to strike from the rule, which says that after the passage of the bill, "it shall

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16. 116 Cong. Rec. 30873, 91st Cong. 2d Sess.

17. John W. McCormack (Mass.).

18. 116 Cong. Rec. 30874, 91st Cong. 2d Sess.

then be in order in the House to take from the Speaker's table the bill S. 721 and to move to strike all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 16542 as passed by the House."

If Members will read the second paragraph under clause 3, rule XXVIII, the second paragraph has to do with precedents and they will find that once this happens then the conferees can put most anything in the bill they wish to, whether it is germane to anything passed by the House or by the Senate, and it will come back to us, and it is made in order. . . .

Mr. [John N.] Erlenborn [of Illinois]: Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman from Hawaii for offering the amendment which I intended to offer if the members of the Rules Committee themselves did not.

The gentleman from California (Mr. Smith) I believe has quite thoroughly described the effect of the language which has been stricken from the rule. If this language had been left in the rule and the Senate bill were then amended by substituting the language of the House bill and sent to conference, under the rules and under the precedents, the conference committee would have been free to put in this bill almost anything that would have been germane and that could have been offered in either the House or the Senate. It would not have been at all limited to the bill passed by the House or passed by the Senate.

I believe most of us have felt that the conference committee had these restraints, that the conference committee could not write new legislation in the conference. But in the past several years there have been too many instances in which altogether new legislation was written by the conference committee, and the House and the Senate have had only two alternatives—to accept the new legislation as written by the conference committee or to reject the conference report and send the whole matter back to conference.

I hope this will be a precedent of the House now, so that we will not include this sort of language in the rules sent by the Rules Committee to the House for the consideration of bills in the future. Or, as suggested by the gentleman from California, that the rules of the House themselves may be amended in the reorganization bill to see that the kinds of restraints we all understand to be imposed upon the conference committee will be imposed in the future to protect us in our legislative function.

The resolution as amended was adopted and the Senate bill was then referred to the Committee on Banking and Currency.

Parliamentarian's Note: At the time of these proceedings, the precedents of the House indicated that where one House struck out of a bill of the other all after the enacting clause and inserted a new text, conferees could discard language occurring both in the bill and the substitute, and exercise broad discretion in incorporating new germane matter. Clause 3 of Rule XXVIII was amended Jan. 22, 1971 (incorporating provisions of the Legislative Reorganization Act of 1970, 84 Stat. 1140), to prohibit House conferees from agreeing to language in a conference report presenting topics, questions, issues, or propositions not committed to conference.

Taking House Bill With Senate Amendments From Table

§ 27.12 Form of resolution taking a House bill with the Senate amendments thereto from the Speaker's table and making it in order to consider the amendments in the House.

The following resolution was under consideration on July 2, 1960:(19)

> *Resolved*, That immediately upon the adoption of this resolution, the bill H.R. 12740 making supplemental appropriations for the fiscal year ending June 30, 1961, and for other purposes, with the Senate amendments thereto, shall be taken from the Speaker's table and the Senate amendments considered in the House.

Parliamentarian's Note: Under this procedure, motions to dispose of each Senate amendment are then in order and subject to separate votes (as if the stage of disagreement had been reached).

§ 27.13 Any Member may request that the Chairman of the Committee on Rules call a meeting of that committee to consider reporting a resolution making in order disposition from the Speaker's table of a House bill, with Senate amendments that require consideration in the Committee of the Whole, notwithstanding Rule XXIV clause 2.

On Aug. 13, 1957,(20) a unanimous-consent request, to take from the Speaker's table a House bill with Senate amendments, was objected to. Speaker Sam Rayburn, of Texas, then answered a parliamentary inquiry:

> MR. [KENNETH B.] KEATING [of New York]: Would the Speaker recognize me to move to send the bill to the Rules Committee?
>
> THE SPEAKER: The Chair would not. It is not necessary to do that.
>
> MR. KEATING: Mr. Speaker, a further parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. KEATING: Would the Speaker advise what action is necessary now in order to get the bill to the Committee on Rules?

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19. H. Res. 596, 106 CONG. REC. 15775, 86th Cong. 2d Sess.

20. 103 CONG. REC. 14568, 85th Cong. 1st Sess.

The Speaker: Anyone can make the request of the chairman of the Committee on Rules to call a meeting of the committee to consider the whole matter.

Mr. Keating: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Keating: Mr. Speaker, if that were done, would the bill which is now on the Speaker's desk be before the Rules Committee?

The Speaker: It would not be before the Committee on Rules. The Committee on Rules could consider the matter of what procedure to recommend to the House for the disposition of this whole matter.

§ 27.14 In response to a parliamentary inquiry, the Speaker pro tempore stated that the Committee on Rules could report out a resolution taking a House bill with Senate amendments (requiring consideration in Committee of the Whole) from the Speaker's table and sending it to the legislative committee of the House having jurisdiction thereof.

On the legislative day of Sept. 25, 1961, Mr. Albert Thomas, of Texas, asked unanimous consent to take from the Speaker's table a House bill making appropriations with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate. The Senate amendments required consideration in Committee of the Whole.

Mr. Frank T. Bow, of Ohio, reserved the right to object to the request and propounded parliamentary inquiries which were answered by Speaker pro tempore John W. McCormack, of Massachusetts:

> Mr. Bow: Mr. Speaker, inasmuch as these amendments of the Senate are in the nature of charges against the Treasury of the United States, I ask this parliamentary inquiry:
>
> Is it not then necessary under the rules and procedures as found in volume 5 of the Procedure of the House of Representatives that the bill be sent to the committee and then considered in the Committee of the Whole before sending it to conference?
>
> The Speaker Pro Tempore: It is the opinion of the Chair that the answer which the Chair gave to the first part of the gentleman's parliamentary inquiry also answers this inquiry: that if objection is made, the Chair would feel constrained, insofar as the Chair is capable of accomplishing it, to have the bill taken from the Speaker's desk and sent to conference under the rules without reference to the committee.
>
> Mr. Bow: I thank the Chair, and withdraw my reservation.
>
> Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, further reserving the right to object, if the [matter] should go to the Rules Committee for a rule, would

it be possible for the Rules Committee to vote out a rule sending the bill to a committee?

THE SPEAKER PRO TEMPORE: The answer is in the affirmative to that parliamentary inquiry.(1)

Concurring in Senate Amendment

§ 27.15 Form of resolution providing that the House shall proceed to consideration of Senate amendments to a House joint resolution and that the motion to concur be pending, fixing debate on the motion to concur and ordering the previous question.

The following resolution, reported from the Committee on Rules, was under consideration on Nov. 12, 1941:(2)

> *Resolved*, That immediately upon the adoption of this resolution the House shall proceed to consider the Senate amendments to the joint resolution (H.J. Res. 237) to repeal section 6 of the Neutrality Act of 1939, and for other purposes; that the motion to concur in the said Senate amendments shall be considered as pending and that debate on said motion shall be limited to not to exceed 8 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and that at the conclusion of such debate the previous question shall be considered as ordered on the motion to concur.

Parliamentarian's Note: This special rule precluded a preferential motion (to concur with an amendment) from being first offered.

§ 27.16 Where a resolution provides for taking a House bill with Senate amendments from the Speaker's table to the end that the Senate amendments are agreed to, adoption of the resolution means that the House concurs in the Senate amendments.

On Mar. 24, 1948, a special order for the disposition of business on the Speaker's table was called up:(3)

MR. [LEO E.] ALLEN of Illinois: Mr. Speaker, I call up House Resolution 510 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved*, That immediately upon the adoption of this resolution the bill (H.R. 4790) to reduce individual income tax payments, and for other purposes, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that all Senate amendments be, and the same are hereby, agreed to.

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1. 107 CONG. REC. 21476, 87th Cong. 1st Sess., Sept. 26, 1961 (Calendar Day).
2. H. Res. 334, 87 CONG. REC. 8763, 77th Cong. 1st Sess.
3. 94 CONG. REC. 3399, 80th Cong. 2d Sess.

Speaker Joseph W. Martin, Jr., of Massachusetts, answered a parliamentary inquiry as to the effect of the resolution should it be adopted:(4)

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RAYBURN: As I understand the parliamentary situation, Mr. Speaker, there is to be one vote only; and if the resolution is agreed to, it means that the House concurs in the Senate amendments to the so-called Knutson bill.

THE SPEAKER: The gentleman has stated the situation correctly.

§ 27.17 Where the House has before it a resolution providing for concurrence in a Senate amendment, such Senate amendment may be read by unanimous consent.

On Mar. 31, 1950, the House had under consideration House Resolution 531 reported from the Committee on Rules, taking from the Speaker's table a House bill with Senate amendment and concurring in the Senate amendment. Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry as to whether the Senate amendment could be read:(5)

MR. [LEO E.] ALLEN of Illinois: I yield to the gentleman from Illinois.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, under the terms of this rule we are asked to approve an amendment which has been added by the other body. Is it in order to request that that amendment, which has not been read to the House, be read at this time?

THE SPEAKER: It may be done by unanimous consent.

MR. YATES: Mr. Speaker, I ask unanimous consent that the amendment added by the other body be read to the House at this time.

THE SPEAKER: That will come out of the time of the gentleman from Illinois [Mr. Allen].

MR. ALLEN of Illinois: I yield for that purpose, Mr. Speaker.

§ 27.18 In response to a parliamentary inquiry, the Speaker stated that if the previous question were voted down on a resolution providing for agreeing to Senate amendments to a House bill, the resolution would be open to amendment.

On June 17, 1970,(6) the House had under consideration House Resolution 914 reported from the Committee on Rules, taking from the Speaker's table H.R. 4249 (to extend the Voting Rights Act) with Senate amendments, and concur-

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4. *Id.* at p. 3413.
5. 96 CONG. REC. 4553, 4554, 81st Cong. 2d Sess.
6. 116 CONG. REC. 20198, 20199, 91st Cong. 2d Sess.

ring in the Senate amendments. Speaker John W. McCormack, of Massachusetts, answered an inquiry on the status of the resolution should the previous question be voted down:

> Mr. [Spark M.] Matsunaga [of Hawaii]: Is my understanding correct that an "aye" vote on House Resolution 914 is a vote to agree to the Senate amendments to H.R. 4249, the Voting Rights Extension Act, so that the bill may then be sent to the President for his signature before the existing act expires on August 6 of this year?
>
> The Speaker: The Chair will state to the gentleman from Hawaii that while that is not a parliamentary inquiry, the statement made by the gentleman from Hawaii is accurate.
>
> Mr. Matsunaga: I thank the Speaker.
>
> Mr. Speaker, I move the previous question on the resolution.
>
> Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman from Michigan will state his parliamentary inquiry.
>
> Mr. Gerald R. Ford: Mr. Speaker, a "no" vote on the previous question does give an opportunity for one of those who led the fight against the resolution to amend the resolution now pending before the House?
>
> The Speaker: The Chair will state in response to the parliamentary inquiry of the gentleman from Michigan that if the previous question is voted down, the resolution is open to amendment. The Chair's response is the same response as given to the gentleman from Hawaii.

§ 27.19 Where the House adopts a resolution which by its terms provides for taking a House bill with Senate amendments from the Speaker's table and agreeing to the Senate amendments, no further action by the House is required.

On Mar. 16, 1933, a special order reported from the Committee on Rules relating to the disposition from the Speaker's table of a House bill with Senate amendments was offered:

> *Resolved,* That immediately upon the adoption of this resolution the bill H.R. 2820, with Senate amendments thereto, be, and the same hereby is, taken from the Speaker's table to the end that all Senate amendments be, and the same are hereby, agreed to.(7)

Speaker Henry T. Rainey, of Illinois, answered a parliamentary inquiry on the effect of the resolution should it be adopted:

> Mr. [Bertrand H.] Snell [of New York]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.

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(7) H. Res. 53, 77 Cong. Rec. 546, 73d Cong. 1st Sess.

Mr. Snell: Mr. Speaker, it would seem to me that if we adopt this resolution that ends the bill and there is no further vote on the bill itself.

The Speaker: That is correct.

Mr. Snell: I understood the gentleman from Alabama to say that we would then vote for or against the bill.

Mr. [John] McDuffie [of Alabama]: No; the gentleman from Alabama was mistaken.

Mr. Snell: If we adopt this resolution, we pass the bill.

Mr. McDuffie: We have then concurred in the Senate amendment, and, therefore, the bill is passed, so far as the House is concerned.

Mr. Snell: And there is no other vote on the bill.

Mr. McDuffie: No other vote on the bill, as I understand it.

The Speaker: That is correct.(8)

§ 27.20 The Chair indicated in response to a parliamentary inquiry that should a resolution providing for concurring in Senate amendments to a House bill be rejected, the bill and amendments would remain on the Speaker's table for further action by the House.

On June 17, 1970, the House had under consideration a special order reported from the Committee on Rules taking from the Speaker's table a House bill with Senate amendments and concurring in the amendments (H. Res. 914). Speaker John W. McCormack, of Massachusetts, answered an inquiry on the effect of rejecting the resolution:(9)

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. [Albert W.] Watson [of South Carolina]: Mr. Speaker, if this resolution is voted down then, further, it will mean we will follow the orderly procedure and let this matter go to conference and reconcile the differences?

The Speaker: The Chair will state that if the resolution is voted down the matter will lie on the Speaker's desk until the House determines what it wants to do with the matter.

Concurring in Senate Amendment With Amendment

§ 27.21 Form of resolution waiving points of order against a conference report on a general appropriation bill and making in order a motion to recede from disagreement to any Senate amendment reported in disagreement and concur therein with an amendment inserting in the proper place in the bill any or all parts of the provisions of another (legislative) bill and any amendments thereto, as agreed upon by the House conferees on the bill on which the conference was held.

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 2, 1955:(10)

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(8) *Id.* at p. 548.

(9) 116 Cong. Rec. 20199, 91st Cong. 2d Sess.

> *Resolved*, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill H.R. 7117, making appropriations for the legislative branch for the fiscal year ending June 30, 1956, and for other purposes, and all points of order against the conference report are hereby waived; that during the consideration of the amendments of the Senate to the bill H.R. 7117 reported from the conference committee in disagreement it shall be in order, notwithstanding any rule of the House to the contrary, to move that the House recede from its disagreement to any such amendment and concur therein with an amendment inserting in the proper place in the bill any or all of the parts of the provisions of the bill H.R. 7440 and any amendments thereto as agreed upon by the House conferees on the bill H.R. 7117.

Parliamentarian's Note: H.R. 7440 was a bill reported by the Committee on House Administration, authorizing salary increases for House employees (the Senate had amended the House bill with legislative language authorizing salary increases for Senate employees). The various provisions of H.R. 7440 would not have been germane as amendments to the Senate amendments, and a waiver of points of order was therefore necessary.

§ 27.22 Form of special order taking from the Speaker's table a House bill with Senate amendments before the stage of disagreement; disagreeing to all Senate amendments except one; providing that the House immediately proceed to the consideration of the remaining amendment and that in the consideration of said amendment a motion to concur with a specified amendment should be in order without any intervening motion.

The following resolution, reported from the Committee on Rules, was under consideration on June 10, 1933:(11)

HOUSE RESOLUTION 185

> *Resolved*, That immediately upon the adoption of this resolution the bill H.R. 5389 with Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that Senate amendments Nos. 1 to 46, inclusive, and Senate amendment No. 48 be, and the same are hereby, disagreed to; that the House shall immediately proceed to the consideration of Senate amendment No. 47, and that in the consideration of said Senate amendment No. 47 the following motion to concur with an amendment

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10. H. Res. 337, 101 CONG. REC. 13051, 84th Cong. 1st Sess.

11. 77 CONG. REC. 5654, 73d Cong. 1st Sess.

shall be in order, and no other intervening motion shall be in order until said motion is fully disposed of:

In lieu of the matter inserted by said Senate amendment No. 47 insert the following:

> "The President is hereby authorized under the provisions of Public Law No. 2, Seventy-third Congress, to establish such number of special boards (the majority of the members of which were not in the employ of the Veterans' Administration at the date of enactment of this act), as he may deem necessary to review all claims (where the veteran entered service prior to November 11, 1918, and whose disability is not the result of his own misconduct), in which presumptive service connection has heretofore been granted under the World War Veterans' Act, 1924, as amended, wherein payments were being made on March 20, 1933, and which are held not service connected under the regulations issued pursuant to Public Law No. 2, Seventy-third Congress. Members of such boards may be appointed without regard to the Civil Service laws and regulations, and their compensation fixed without regard to the Classification Act of 1923. . . ."

Disagreeing to Senate Amendments, Going to Conference

§ 27.23 Form of resolution taking from the Speaker's table an appropriation bill with Senate amendments, disagreeing to the amendments, agreeing to a conference, providing that the Speaker appoint conferees without intervening motion (thus precluding a motion to instruct conferees) and providing that it be in order to consider the conference report when reported without regard to the rule requiring printing in the Record.

The following resolution, reported from the Committee on Rules, was under consideration on June 30, 1951:[12]

Resolved, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 277) making temporary appropriations for the fiscal year 1952, and for other purposes, with the Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said joint resolution be, and hereby is, agreed to by the House, and that the Speaker shall immediately appoint conferees without intervening motion.

Sec. 2. It shall be in order to consider the conference report on the said joint resolution when reported notwithstanding the provisions of clause 2, rule XXVIII.

§ 27.24 Form of special order taking a House appropriations bill with Senate amendments from the Speaker's table, disagreeing to the amendments, agreeing to the

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[12] H. Res. 309, 97 Cong. Rec. 7538, 82d Cong. 1st Sess.

conference requested by the Senate, directing the Speaker to immediately appoint conferees without intervening motion, and giving specific authority to the conferees on the part of the House to agree or disagree to any Senate amendment containing legislation or unauthorized appropriations.

The following resolution, reported from the Committee on Rules, was under consideration on Mar. 26, 1935:(13)

> *Resolved,* That immediately upon the adoption of this resolution the joint resolution, House Joint Resolution 117, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said joint resolution be, and hereby is, agreed to by the House; that the Speaker shall immediately appoint managers on the part of the House without intervening motion; and that the managers on the part of the House are hereby given specific authority to agree, with or without amendment, or disagree to any amendment of the Senate to the said joint resolution notwithstanding the provisions of clause 2 of rule XX.

§ 27.25 Form of special order discharging the Committee of the Whole from the further consideration of an appropriation bill with Senate amendments thereto; disagreeing to all Senate amendments; agreeing to a conference asked by the Senate; authorizing the Speaker without any intervening motion to appoint conferees; and empowering the conferees on the part of the House to agree to any Senate amendment containing legislation or unauthorized appropriations.

The following resolution was under consideration on Mar. 14, 1934:(14)

> HOUSE RESOLUTION 299
>
> *Resolved,* That immediately upon the adoption of this resolution the Committee of the Whole House on the state of the Union be, and it is hereby, discharged from the further consideration of the bill H.R. 6663 and the Senate amendments thereto; that the said Senate amendments be, and hereby are, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said bill be, and hereby is, agreed to by the House; that the Speaker shall immediately appoint the conferees without intervening motion; and that the conferees on the part of the House are hereby given specific authority to agree, with or

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13. H. Res. 174, 79 CONG. REC. 4465, 74th Cong. 1st Sess. H.J. Res. 117 was a bill making relief appropriations.

14. 78 CONG. REC. 4509, 73d Cong. 2d Sess.

without amendment, or disagree to any amendment of the Senate to the bill H.R. 6663 notwithstanding the provisions of clause 2 of rule XX.

§ 27.26 To a resolution providing that the House disagree to Senate amendments, including an amendment directing the Committee on Ways and Means of the House and Finance Committee of the Senate to conduct a study of excess-profits tax legislation, and sending the bill to conference, an amendment providing that the House concur in such amendment with an amendment enacting excess-profits legislation was held to be not germane.

On Sept. 14, 1950,(15) a special order was called up:

Mr. [Adolph J.] Sabath [of Illinois]: Mr. Speaker, I call up House Resolution 842 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That immediately upon the adoption of this resolution the bill (H.R. 8920) to reduce excise taxes, and for other purposes, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said bill be, and hereby is, agreed to; and that the Speaker shall immediately appoint conferees without intervening motion.

The previous question was rejected on the resolution, and Mr. Herman P. Eberharter, of Pennsylvania, offered an amendment to the resolution:

Mr. Eberharter: Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Eberharter: Strike out all after the word "*Resolved*" and insert in lieu thereof the following:

"That immediately upon the adoption of this resolution, the bill H.R. 8920 with Senate amendments thereto be, and the same is hereby, taken from the Speaker's table to the end—

"(1) That all Senate amendments other than amendment No. 191 be, and the same are hereby, disagreed to and the conference requested thereon by the Senate is agreed to; and

"(2) That Senate amendment No. 191 be, and the same is hereby, agreed to with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate insert the following:

" 'TITLE VII—EXCESS-PROFITS TAX

" 'Sec. 701. Excess-profits tax applied to taxable years ending after June 30, 1950

" 'Notwithstanding section 122(a) of the Revenue Act of 1945, the provisions of subchapter E of chapter 2 of the Internal Revenue Code shall apply to taxable years ending after June 30, 1950.

" 'Sec. 702. Computation of tax in case of taxable year beginning before July 1, 1950, and ending after June 30, 1950.' "

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[15] 96 Cong. Rec. 14832, 81st Cong. 2d Sess.

Speaker Sam Rayburn, of Texas, sustained a point of order against the amendment, on the grounds that it was not germane to the resolution:

Mr. [Wilbur D.] Mills [of Arkansas]: Mr. Speaker, I make the point of order against the amendment on the ground that the amendment is neither germane to the resolution sought to be amended, nor to the Senate amendment No. 191. The language of the Senate amendment would direct the Committee on Ways and Means of the House and the Finance Committee of the Senate to conduct a study of excess-profits-tax legislation during the Eighty-second Congress, ostensibly to report back to the House and Senate for passage with a retroactive date of July 1, 1950, or October 1, 1950.

The provision of the bill does not in any way attempt to legislate an excess-profits tax in connection with H.R. 8920. The amendment offered by the gentleman from Pennsylvania proposes an excess-profits tax in connection with H.R. 8920. The amendment is a specific provision for an excess-profits tax. Therefore, Mr. Speaker, it seems to me that the amendment offered by the gentleman from Pennsylvania is not in order, that it is not germane either to the resolution before the House or to the section of the bill on which the instructions are sought to be given. . . .

Mr. Eberharter: In the first place, Mr. Speaker, this amendment seeks to amend the resolution reported out by the Committee on Rules. This resolution waives points of order with respect to other rules of the House. Under the rules of the House when a bill comes from the other body with amendments containing matter which would have been subject to a point of order in the House then the amendments must be considered in the Committee of the Whole. The resolution reported out by the Committee on Rules seeks to waive that rule.

If a resolution reported out by the Committee on Rules can waive one rule of the House, why cannot the House by the adoption of a substitute resolution, which this is, waive other rules? I contend, Mr. Speaker, that this substitute for the resolution reported out by the Committee on Rules is just as germane and just as much in order as the actual resolution reported out by the Committee on Rules; they are similar. . . .

The Speaker: The Chair is ready to rule.

The Chair agrees with a great deal that the gentleman from Pennsylvania and the gentleman from Colorado say about history, but that is not the question before the Chair to decide at this time.

It is a rule long established that a resolution from the Committee on Rules providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another and not germane subject or matter.

It is true that in Senate amendment No. 191 to the bill, which came from the Senate, there is a caption "Title VII," which states "Excess Profits Tax." But in the amendment which the Senate adopted to the House bill there is no excess-profits tax.

The Chair is compelled to hold under a long line of rulings that this matter, not being germane if offered to the Senate amendment it is not germane here. The Chair sustains the point of order.(16)

Disagreeing in Part, Concurring in Part, Going to Conference

§ 27.27 Form of special order taking a House bill with Senate amendments from the Speaker's table, waiving all points of order against the bill and any Senate amendment, disagreeing to a number of Senate amendments, concurring in others, and agreeing to a conference requested by the Senate on the amendments in disagreement.

The following resolution was under consideration on May 2, 1933:(17)

House Resolution 124

Resolved, That immediately upon the adoption of this resolution the bill H.R. 3835 with Senate amendments thereto be, and the same is hereby, taken from the Speaker's table; that all points of order against said bill or Senate amendments thereto shall be considered as waived; that Senate amendments nos. 1 to 84, inclusive, be, and the same are hereby, disagreed to; that Senate amendment no. 85 be, and the same is hereby, concurred in; that the conference requested by the Senate on the disagreeing votes of the two Houses be, and the same is hereby, agreed to.

Insisting Upon House Amendment, Going to Conference

§ 27.28 Form of resolution providing that the House insist upon its amendment to a Senate bill, ask a conference with the Senate on the disagreeing votes of the two Houses, and that the Speaker immediately appoint conferees.

The following resolution was called up under a motion to suspend the rules on June 18, 1948:(18)

Resolved, That the House insist upon its amendment to S. 2655, ask a conference with the Senate on the disagreeing votes, and that the Speaker immediately appoint conferees.

§ 27.29 Form of resolution taking Senate bill with House amendments from Speaker's table; insisting on House amendments, and agreeing to further conference.

The following resolution, reported from the Committee on Rules, was

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16. *Id.* at pp. 14841–44.

17. 77 Cong. Rec. 2693, 73d Cong. 1st Sess.

18. H. Res. 690, 94 Cong. Rec. 8829, 80th Cong. 2d Sess.

under consideration on Aug. 12, 1964:(19)

Resolved, That immediately upon the adoption of this resolution the bill (S. 1007) to guarantee electric consumers in the Pacific Northwest first call on electric energy generated at Federal hydroelectric plants in that region and to guarantee electric consumers in other regions reciprocal priority, and for other purposes, with House amendments thereto, be, and the same is hereby, taken from the Speaker's table; that the House insists on its amendments to said bill and agrees to the further conference requested by the Senate on the disagreeing votes thereon.

§ 27.30 Form of resolution taking two Senate bills from Speaker's table, amending and passing such bills, insisting on such amendments, and requesting a conference with the Senate.

The following resolution, reported from the Committee on Rules, was under consideration on Nov. 18, 1971:(20)

H. Res. 710

Resolved, That immediately upon the adoption of its resolution and without the intervention of any point of order the bills of the Senate S. 2819 and S. 2820 are hereby taken from the Speaker's table; that said Senate bills are hereby amended by striking out all after the enacting clause of each such Senate bill and inserting in lieu thereof the text of the bill H.R. 9910 as passed by the House on August 3, 1971; that the said Senate bills as so amended shall be considered as read a third time and passed; that the title of each such Senate bill shall be amended by striking out such title and inserting in lieu thereof the title of H.R. 9910; that the House insists upon its amendments to each Senate bill and requests conferences with the Senate, and that the Speaker appoint managers on the part of the House to attend each such conference.

Sending Bill to Conference

§ 27.31 In answer to a series of parliamentary inquiries, the Speaker explained that: (1) where objection is raised to a unanimous-consent request to send a bill to conference, the bill does not automatically "go to the Rules Committee" but remains on the Speaker's table and may be sent to conference by motion authorized by the standing committee under Rule XX clause 1; (2) the Committee on Rules has jurisdiction over resolutions providing for the disposition of Senate amendments; and (3) if conferees have failed to file a report within 20 days of their appointment, a motion to instruct

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19. H. Res. 818, 110 Cong. Rec. 19194, 88th Cong. 2d Sess.

20. 117 Cong. Rec. 42046, 92d Cong. 1st Sess.

the conferees, or discharge them and appoint new ones, would be in order.

On May 29, 1968,[1] Mr. Emanuel Celler, of New York, asked unanimous consent to take from the Speaker's table H.R. 5037 (Law Enforcement and Criminal Justice Assistance Act of 1967) with a Senate amendment thereto, disagree to the Senate amendment and request a conference with the Senate. Under a reservation of the right to object, Mr. Richard H. Poff, of Virginia, propounded a series of parliamentary inquiries to Speaker John W. McCormack, of Massachusetts:

Mr. Poff: If no objection is registered to the unanimous-consent request, will the effect be to send the bill either to the Committee on Rules or to the Committee on the Judiciary for a resolution instructing the chairman of the Committee on the Judiciary to make a motion that the bill go to conference?

The Speaker: In response the Chair will say if objection is made to the unanimous-consent request the bill will remain on the Speaker's desk. The Committee on the Judiciary could take action to authorize the chairman or any Member to make a motion to take the bill from the Speaker's desk for the purpose of sending it to conference. . . .

Mr. Poff: If the motion to go to conference is not adopted by the House, in such case would it be in order for the Committee on Rules to report a resolution making it in order to move to recede and concur?

The Speaker: Under the rules of the House it is within the authority and jurisdiction of the Committee on Rules to report a resolution providing for the disposition of the Senate amendments. . . .

Mr. Poff: If the conference is appointed and has not agreed within a 21-day period, will it then be in order to move to discharge the House conferees?

The Speaker: Under rule XXVIII, it would be in order to move either to discharge or to instruct the managers on the part of the House after 20 days.

Making in Order Consideration of Conference Reports When Reported

§ 27.32 Form of resolution agreeing to a conference with the Senate, providing that the Speaker immediately appoint conferees, and making in order the consideration of the conference report when reported.

The following resolution, reported from the Committee on Rules, was under consideration on June 30, 1951:[2]

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[1] 114 Cong. Rec. 15499, 90th Cong. 2d Sess.

[2] H. Res. 667, 97 Cong. Rec. 7538, 82d Cong. 1st Sess.

Resolved, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 277) making temporary appropriations for the fiscal year 1952, and for other purposes, with the Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said joint resolution be, and hereby is, agreed to by the House, and that the Speaker shall immediately appoint conferees without intervening motion.

Sec. 2. It shall be in order to consider the conference report on the said joint resolution when reported notwithstanding the provisions of clause 2, rule XXVIII.

§ 27.33 Form of resolution providing that during the remainder of the week it shall be in order to consider conference reports the same day reported, and authorizing the Speaker to entertain the motions to suspend the rules.

The following resolution, reported from the Committee on Rules, was under consideration on July 25, 1956:[3]

Resolved, That during the remainder of this week it shall be in order to consider conference reports the same day reported notwithstanding the provisions of clause 2, rule XXVIII; that it shall also be in order during the remainder of this week for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII.

§ 27.34 The Committee on Rules may report to the House a resolution making in order the consideration of a conference report which has not yet been submitted to the House.

On many occasions, the Committee on Rules has reported resolutions making in order the consideration of conference reports on the same day reported. For example, on July 25, 1956, the House adopted a resolution from the Committee on Rules providing as follows:

Resolved, That during the remainder of this week it shall be in order to consider conference reports the same day reported notwithstanding the provisions of clause 2, rule XXVIII; that it shall also be in order during the remainder of this week for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII.[4]

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[3] H. Res. 630, 102 Cong. Rec. 14456, 84th Cong. 2d Sess.

[4] H. Res. 630, 102 Cong. Rec. 14456, 84th Cong. 2d Sess.

On June 30, 1951, the House adopted a resolution from the Committee on Rules which not only provided for a conference on an appropriation bill but also provided for the consideration of the conference report when reported:

Mr. [Adolph J.] Sabath [of Illinois]: Mr. Speaker, by direction of the Committee on Rules I submit a privileged report (H. Res. 309, Rept. No. 667) and ask for its immediate consideration.

> *Resolved*, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 277) making temporary appropriations for the fiscal year 1952, and for other purposes, with the Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said joint resolution be, and hereby is, agreed to by the House, and that the Speaker shall immediately appoint conferees without intervening motion.
>
> Sec. 2. It shall be in order to consider the conference report on the said joint resolution when reported notwithstanding the provisions of clause 2, rule XXVIII.(5)

§ 27.35 Notwithstanding the adoption by the House of a resolution making in order the consideration of conference reports on the day reported (on that day), the Speaker indicated, in response to a parliamentary inquiry, that legislative history which prompted the Committee on Rules to meet and report that resolution restricted his authority to recognize Members to call up three designated reports.

On Oct. 18, 1972,(6) Mr. William M. Colmer, of Mississippi, called up by direction of the Committee on Rules House Resolution 1168, providing for the consideration, on a certain day, of any reports from the Committee on Rules and any conference reports reported on that day. Mr. Colmer explained that the resolution was a product of an informal leadership agreement of the preceding day.

Speaker Carl Albert, of Oklahoma, then answered parliamentary inquiries on his exercise of the power of recognition under the resolution:

Mr. [Peter W.] Rodino [Jr., of New Jersey]: Mr. Speaker, under the resolution just agreed to, would it be in order for the House to consider the conference report when it is ready on S. 2087, Omnibus Crime Control and Safe Streets Act of 1968, benefits to survivors of police officers killed in line of duty, which was agreed upon and which was filed yesterday?

The Speaker: The Chair must answer the gentleman in accordance with the language which the Chair used when this matter was before the House on yesterday. At that time the Chair stated, and no specific reference was made to any bill because it has been informally mentioned to the Members who were seeking the rule, that this rule would not be used for any other bill except those dealing with three items. Under that interpretation it would be in order to bring those conference reports up on the day on which they were filed. As the Chair understands his own language and his own informal agreement, which was a part of the history, the Chair would very much like to recognize the gentleman, but the Chair feels constrained to hold that the legislative history restricts all action under House Resolution 1168 to three measures, the highway bill, the debt ceiling bill, and the continuing resolution.

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(5) 97 Cong. Rec. 7538, 82d Cong. 1st Sess.

(6) 118 Cong. Rec. 37063, 37064, 92d Cong. 2d Sess.

Mr. Rodino: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rodino: Mr. Speaker, referring again to the rule adopted, was not the language strictly stated, and this is the language that I heard stated, the language referred to in the course of debate notwithstanding legislative history of yesterday, to consider conference reports the same day reported, notwithstanding the provisions of clause 2, rule XXVIII?

The Speaker: The gentleman is referring to three conference reports which precipitated the action which brought into existence this resolution.

The Chair would like to recognize the gentleman, but the Chair feels that its own promise is at stake here.

The Chair will try to find some other method of recognizing the gentleman.

The Chair does not feel that in good faith or in good conscience it can recognize the gentleman under the circumstances. . . .

The Chair feels constrained to say—and the Chair hates to make a statement from the Chair on issues like this—it was suggested these three bills which the Chair has mentioned be listed in the resolution. The Chair said that was not necessary; that was the understanding, and it would simply complicate the resolution by naming the three bills. That is what happened.

The Chair recognizes that had it not been for that understanding and legislative history, which is in the Record, this would have been eligible under the clear language of the resolution.

The Chair would gladly recognize the gentleman for a unanimous-consent request to bring it up now.

Unauthorized Appropriations in Conference Report Protected by Special Order Waiving Points of Order Against House Bill

§ 27.36 Where an appropriation bill is considered in the House under a rule waiving points of order against a provision therein which is unauthorized by law, and the Senate then amends the unauthorized provision, reducing the sum of money involved and striking out a portion of the

language, conferees may (without violating the provisions of Rule XX clause 2) agree to a sum between the two and restore the House language.

On Dec. 20, 1969, Mr. Otto E. Passman, of Louisiana, called up a conference report on H.R. 15149, making appropriations for foreign assistance for fiscal 1970. The House had originally considered the bill on Dec. 9, 1969, pursuant to a special order from the Committee on Rules (H. Res. 742) which waived all points of order against the bill. The resolution had been reported and adopted since many items in the Foreign Assistance Appropriations Act were unauthorized by law (the authorization not having been enacted into law) and therefore in violation of Rule XXI clause 2.(7)

Parliamentarian's Note: Where a special rule in the House waives points of order against portions of an appropriation bill which are unauthorized by law, and the bill passes the House with those provisions included therein and goes to conference, the conferees may report back their agreement to those provisions (and Senate modifications thereof) even though they remain unauthorized, since waiver of points of order under Rule XXI clause 2, carries over to the consideration of the same provisions when the conference report is before the House.

When the conference report was called up on Dec. 20, Speaker John W. McCormack, of Massachusetts, overruled two points of order against the conference report, since the waiver of points of order during the original consideration of the bill carried over to provisions in the conference report protected by the resolution:(8)

> MR. PASSMAN: Mr. Speaker, I call up the conference report on the bill (H.R. 15149) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1970, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report. . . .
>
> MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I make a point of order against that portion of the conference report which provides funds for the purchase of planes for the Republic of China on the ground that it is an appropriation that is not authorized by law.
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> I read from the conference report on the authorization bill which appears in the *Congressional Record* of December 18 on page 39841 relating to the military assistance, section 504 of the act.

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(7) For the special order and its adoption, see 115 CONG. REC. 37948, 91st Cong. 1st Sess., Dec. 9, 1969.

(8) *Id.* at pp. 40445-48.

The House bill authorized a total of $454,500,000 for military assistance of which $350,000,000 was for worldwide allocation; $50,000,000 for Korea; $54,500,000 for the Republic of China.

The Senate amendment authorized a total of $325,000,000 without any allocation to specified countries.

The managers on the part of the House agreed to the authorization of $350,000,000 without specifying any country allocation. They found it impossible to obtain agreement to a larger total for military assistance and believe that any specific additional allocation for Korea or for the Republic of China would result in a drastic curtailment of the worldwide authorization which would be detrimental to our national security.

So in the basic law, in the authorization law there is no allocation specifically of funds for any country and I suggest that the appropriation of funds in a specific amount for military assistance to a particular country is without authorization of law. . . .

Mr. Passman: Mr. Speaker, may I be heard further on the point of order?

Mr. Speaker, it is my understanding that the lateness of the so-called authorization bill, which does not exist in fact, as yet, and the very fact that the majority leader of the other body said there would be no authorization bill, and the chairman of the Foreign Relations Committee said there would be no authorization bill, made it necessary for us to move this bill through the Appropriations Committee, the Rules Committee, and the Rules Committee gave us a rule waiving points of order. We have moved the bill, as I understand it, according to the rules of the House, and this appropriation bill became an authorization bill also, in the absence of any authorization act. Even at this late hour we still do not have an authorization bill because the conference report on the authorization bill was only adopted yesterday by both Houses and has not yet reached the President for his signature. . . .

The Speaker: The Chair can only rule upon the point of order which is made, and the Chair is prepared to rule.

The gentleman from Illinois has raised a point of order against the conference report on the bill H.R. 15149.

The Chair is aware of the fact pointed out by the gentleman from Illinois—that the authorization bill for fiscal 1970, while passed by both Houses, has not yet become law. As pointed out in the debate on this point of order, the conference report now before the House does carry an amount for military assistance that is $54,500,000 above the figure which would be authorized by H.R. 14580, the Foreign Assistance Act of 1969.

However, the Chair recalls that when this appropriation bill passed the House, it was considered under a rule waiving points of order. The House agreed to a total figure for military assistance of $454,500,000. The Senate reduced this figure to $350 million. The conferees have reached an agreement between these two amounts, as they had the authority to do.

The Chair holds that the conferees have not exceeded their authority and overrules the point of order. . . .

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, I make a point of order against consideration of the conference report in toto.

The Speaker: The gentleman will state his point of order.

Mr. Gross: Mr. Speaker, I make a point of order against consideration of the conference report on the basis that none of the appropriations contained in the bill H.R. 15149 have been authorized by law.

Mr. Passman: May I be heard on that, Mr. Speaker?

The Speaker: Of course, the Chair will hear the gentleman.

Mr. Passman: It is my understanding that the Chair just ruled on that specific point a moment ago. I ask for a ruling, Mr. Speaker.

The Speaker: The Chair will state that it overrules the point of order made by the gentleman from Iowa (Mr. Gross), on the ground that the special rule waived points of order against the provisions of the House bill.

Consideration of Conference Reports

§ 27.37 Form of resolution providing for consideration of a conference report, fixing debate thereon at four hours, and providing that the previous question be considered as ordered at expiration of debate.

The following resolution, reported from the Committee on Rules, was under consideration on Feb. 8, 1938:[9]

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of the conference report on the bill H.R. 8505, an act to provide for the conservation of national soil resources and to provide an adequate and balanced flow of agricultural commodities in interstate and foreign commerce, and for other purposes; that all points of order against said conference report are hereby waived; and that after debate on said conference report, which may continue not to exceed 4 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the previous question shall be considered as ordered on agreeing to the conference report.

§ 27.38 Form of special order providing for the consideration of two conference reports on the same bill together, for the purposes of debate and vote.

The following resolution, reported from the Committee on Rules, was under consideration on June 14, 1930:[10]

Resolved, That for the purpose of the vote and debate the two conference reports on the bill H.R. 2667 shall be considered as one report. The reading of the two reports shall be waived, and the statements of the managers on the part of the House shall be read in lieu thereof. There shall be three hours of debate, which shall be confined to the reports, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. In the consideration of the reports all points of order shall be waived. At the conclusion of debate the previous question shall be considered as ordered on the adoption of the reports.

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[9] H. Res. 416, 83 Cong. Rec. 1645, 75th Cong. 3d Sess.

[10] H. Res. 253, 72 Cong. Rec. 10694, 71st Cong. 2d Sess.

§ 27.39 Adoption of a special order providing for the consideration of two conference reports together for the purposes of debate and vote suspends the rule providing for the division of the question.

On June 14, 1930, the House adopted House Resolution 253, reported from the Committee on Rules, providing that two conference reports on the same bill be considered together. The rule provided for three hours of debate on the reports and provided that at the conclusion of debate the previous question be considered as ordered on the adoption of the reports. Speaker Nicholas Longworth, of Ohio, answered a parliamentary inquiry as to the effect of the special order on voting on the reports:

MR. [CHARLES R.] CRISP [of Georgia]: The rule as reported provides that for the purpose of vote and debate the two conference reports on the bill shall be considered as one report. Section 774 of the rules of the House provides:

> On the demand of any Member, before the question is put, a question shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain.

This rule provides that the two conference reports, each one distinct and substantive, shall be considered as one report. Now, my inquiry is: Does that take away the right of any Member to ask for a division and a separate vote on the two conference reports?

THE SPEAKER: The Chair thinks that if the resolution is adopted by a majority, that suspends the rule quoted by the gentleman for today in connection with this bill.(11)

Parliamentarian's Note: Conferees filed two conference reports on this bill on June 13, 1930 (H. Rept. 1892 and H. Rept. 1893). One report dealt with certain of the many numbered Senate amendments, and the second dealt with the others. In current practice, only one conference report is filed per conference, to dispose of, or to report in dis-

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11. 72 CONG. REC. 10694, 71st Cong. 2d Sess.

agreement on, all the amendments in disagreement.

Waiving Points of Order Against Conference Reports and Motions on Amendments in Disagreement

§ 27.40 Form of resolution reported from the Committee on Rules, waiving points of order against a conference report where House conferees had: (1) included provisions beyond the scope of the differences between the House bill and Senate amendment in the nature of a substitute; (2) agreed to an appropriation in the Senate amendment; and (3) agreed to certain nongermane provisions therein.

The following resolution, reported from the Committee on Rules, was under consideration on July 27, 1972:(12)

> *Resolved,* That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 12931) to provide for improving the economy and living conditions in rural America, and all points of order against the conference report for failure to comply with the provisions of clauses 2 and 3, rule XX and clause 3, rule XXVIII are hereby waived.

§ 27.41 Form of resolution waiving all points of order against a conference report.

The following resolution, reported from the Committee on Rules, was under consideration on July 31, 1963:(13)

> *Resolved,* That upon the adoption of this resolution it shall be in order to consider the conference report on the bill, H.R. 5207, to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations, and for other purposes, and all points of order against the conference report are hereby waived.

§ 27.42 Form of resolution waiving all points of order against the consideration of a conference report (where conferees had exceeded the scope of their authority in violation of Rule XXVIII clause 3).

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 3, 1973:(14)

> *Resolved,* That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 502) to authorize appropriations for the construction of certain highways

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(12) H. Res. 1057, 118 Cong. Rec. 25822, 92d Cong. 2d Sess.

(13) H. Res. 453, 109 Cong. Rec. 13816, 88th Cong. 1st Sess.

(14) H. Res. 517, 119 Cong. Rec. 28089, 93d Cong. 1st Sess.

in accordance with title 23 of the United States Code, and for other purposes, and all points of order against said conference report are hereby waived.

§ 27.43 Form of special order making in order the consideration of, and waiving points of order against, a conference report previously ruled out on a point of order.

The following resolution, reported from the Committee on Rules, was under consideration on May 9, 1933:[15]

Resolved, That notwithstanding the previous action of the House relative to the conference report on the disagreeing votes of the two Houses on the bill H.R. 3835, immediately upon the adoption of this resolution the House shall consider said conference report without the intervention of points of order against the same.

§ 27.44 Form of resolution making in order a conference report and making in order and waiving points of order against a motion to recede and concur in a designated Senate amendment, reported in disagreement, with an amendment (constituting legislation on appropriation bill).

The following resolution, reported from the Committee on Rules, was under consideration on Dec. 23, 1963:[16]

Resolved, That upon the adoption of this resolution it shall be in order to consider without the intervention of any point of order the conference report on the bill (H.R. 9499) making appropriations for foreign aid and related agencies for the fiscal year ending June 30, 1964, and for other purposes, and that during the consideration of the amendment of the Senate numbered 20 to the bill, it shall be in order to consider, without the intervention of any point of order, a motion by the Chairman of the Managers on the part of the House to recede and concur in said Senate amendment numbered 20 with an amendment.

§ 27.45 Form of resolution waiving points of order against a conference report and making in order a motion to recede from disagreement to a Senate amendment and concur therein with an amendment inserting in the proper place in the bill any or all parts of the provisions of another bill and any amendments thereto, as agreed upon by the House conferees on

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[15] H. Res. 136, 77 CONG. REC. 3060, 73d Cong. 1st Sess. The conference report had been previously held out of order because the conferees had agreed to certain matter not committed to conference.

[16] H. Res. 600, 109 CONG. REC. 25495, 88th Cong. 1st Sess.

the bill on which the conference was had.

The following resolution, reported from the Committee on Rules, was under consideration on Aug. 2, 1955:(17)

> *Resolved,* That upon the adoption of this resolution it shall be in order to consider the conference report on the bill H.R. 7117, making appropriations for the legislative branch for the fiscal year ending June 30, 1956, and for other purposes, and all points of order against the conference report are hereby waived; that during the consideration of the amendments of the Senate to the bill H.R. 7117 reported from the conference committee in disagreement it shall be in order, notwithstanding any rule of the House to the contrary, to move that the House recede from its disagreement to any such amendment and concur therein with an amendment inserting in the proper place in the bill any or all of the parts of the provisions of the bill H.R. 7440 and any amendments thereto as agreed upon by the House conferees on the bill H.R. 7117.

E. PRIVILEGED BUSINESS

§ 28. Authority and Scope Under Constitution, Statutes, and Rules

As discussed in the preceding sections of this chapter, the regular order of business in the House of Representatives is governed by those provisions of the rules of the House establishing the order of business and making in order, at certain times, specific methods for bringing measures before the House. It has been noted that the regular order of business may be varied by unanimous consent, by suspension of the rules, and by special orders reported from the Committee on Rules and called up as privileged propositions.(18)

By rule and by practice, the House has also determined that a variety of matters of immediate importance should have precedence over the regular order of business,

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17. H. Res. 337, 101 Cong. Rec. 13051, 84th Cong. 1st Sess. The bill H.R. 7440 was a bill reported from the Committee on House Administration, providing for increased salaries of certain employees of the House.

18. See § 8, supra (varying order of business generally), § 9, supra (use of motions to suspend rules), § 20, supra (varying order of business by resolutions from Committee on Rules).

to the extent of interrupting or superseding the consideration of other business. Because of the power of privileged questions to interrupt the regular order of business, only such propositions as fall strictly within the scope and definition of preferential matters may be raised as privileged.

The grant of precedence to certain questions arises from three sources: the United States Constitution, the rules of the House, and statutes enacted pursuant to the rulemaking power of the House (and of the Senate).

Under contemporary practice, only two types of propositions are privileged for consideration solely because of constitutional provisions: veto messages and resolutions relating to the impeachment power. A veto message is privileged for consideration when received by the House and on a day certain to which postponed, and both the report of a committee on a vetoed bill referred to the committee, and a motion to discharge a committee from the further consideration of a vetoed bill, are highly privileged. The privilege of a veto message arises from article I, section 7, clause 2 of the Constitution:

> Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it.(19)

The constitutional power of the House in the impeachment of civil officers under the United States government arises from article I, section 2, clause 5 of the Constitution:

> . . . and [the House of Representatives] shall have the sole power of impeachment.(20)

The House has determined that propositions to impeach, and reports from the committee investigating charges of impeachment, are highly privileged for consideration in the House.(1)

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19. See §§ 28.2–28.8, infra, for the privilege of veto messages. For further discussion of the relative priority of veto messages and other business, see § 31, infra. A distinction may be drawn between the receipt of a Presidential message, returning a vetoed bill, and the consideration of such message. For example, a question of privilege may supersede the disposition of the message but not its receipt.

20. See also U.S. Const. art. I, § 3, clauses 6, 7 and U.S. Const. art. II, § 4.

1. See §§ 28.9–28.11, infra.

Two other duties of the House arising specifically under the United States Constitution take precedence over other matters but their privilege does not stem from constitutional provisions alone. Article I, section 5, clause 1 provides that the House shall be the sole judge of the elections, returns, and qualifications of its Members. Reports and resolutions on contested-election cases are privileged, pursuant to provisions of the House rules giving the Committee on House Administration the power to report at any time on the right of a Member to his seat.(2) Contested-election cases were formerly brought up as questions of constitutional privilege, and were held to take precedence over other highly privileged questions, such as veto messages and questions of the privileges of the House.(3) But in the later practice, reports and resolutions relating to contested elections are called up by the Committee on House Administration as privileged under Rule XI, as cited above.(4)

Article VI, clause 3 provides that Representatives shall take an oath. The administration of the oath to Members is highly privileged, as a question of the privileges of the House. The oath is administered to Members-elect en masse at the convening of Congress. But a Member-elect appearing during a session may be administered the oath as a matter of the highest privilege which may interrupt other business.(5)

Certain other actions which the House may take under the Constitution are privileged for consideration, but do not represent "business" within the context of this discussion. Examples are concurrent resolutions for adjournment *sine die* or to a day certain,(6) concurrent resolutions for joint sessions to hear the President and to conduct the electoral count,(7) and motions incident to establishing a quorum.(8)

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(2) Rule XI clause 22, *House Rules and Manual* § 726 (1973). [Now Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).]

(3) See, for example, 5 Hinds' Precedents §§ 6641, 6642; and 8 Cannon's Precedents § 2276.

(4) See Ch. 17, supra, for privileged committee reports.

(5) See §§ 28.20, 28.21, infra. See also § 31, infra.

(6) See §§ 29.17, 29.18, infra, for concurrent resolutions on adjournment.

(7) See § 29.19, infra.

(8) See Ch. 20, supra, on quorums.

Some other prerogatives of the House, arising from constitutional provisions, may be presented as questions of the privileges of the House. For example, the arrest or subpena of a Member may involve the privilege from arrest specified in the Constitution, and a subpena for records of the House may involve the principle of separation of powers. In both situations, the subpena is laid before the House as a question of the privileges of the House, and a resolution asserting the privileges of the House is offered from the floor as a question of the privileges of the House.

But in order to constitute a question of the privileges of the House, the matter asserted and the resolution offered must fall within the definition specified in Rule IX(9) and within the scope of the past rulings of the Chair on whether such a question has been properly presented.

It is not sufficient that a question arises from the Constitution or that a question contemplates action by the House or is one committed to the House under the United States Constitution. For example, a resolution to confirm the nomination of the Vice President, a duty committed to the House under the 25th amendment to the Constitution, is not privileged for consideration. In earlier precedents, it was held that actions directed by the Constitution were privileged for consideration, such as taking the census (under article I, section 2, clause 3). But under later decisions and under the current practice of the House, matters arising and powers conferred under the Constitution are not privileged for consideration (except those enumerated above) unless also constituting a question of the privileges of the House under Rule IX or a privileged matter under other House rules.(10)

The rules of the House(11) enumerate a variety of bills, reports, resolutions, and motions (relating to the order of business) which are privileged for consideration. For example, certain committees are given the power to report to the House at any time on certain subjects. The Committee on Rules may submit privileged reports to the House on the order of business

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9. *House Rules and Manual* § 661 (1979).

10. See § 28.1, infra. See generally Ch. 11, supra, for the nature and scope of questions of the privileges of the House.

11. See, for example, Rule XI clauses 4(a), 4(b), *House Rules and Manual* §§ 726, 729 (1979).

and may obtain consideration of such reports as privileged matters.

Certain kinds of reports are privileged for consideration when reported by any committee, such as reports on resolutions of inquiry, on the contempt of witnesses, and on vetoed bills.(12)

Conference reports are highly privileged for consideration under the rules.(13) A very few resolutions may be immediately considered as privileged when offered as original propositions and without reference to committee, such as concurrent resolutions for adjournment for more than three days or *sine die*, and resolutions brought up under a question of the privileges of the House.(14)

It should be noted that all propositions given precedence for immediate consideration under the rules of the House must fall strictly within the penumbra of the privilege. Nonprivileged provisions included in a measure otherwise privileged, may destroy the precedence of the entire proposition.(15)

Certain resolutions are privileged for consideration pursuant to statute. Congress has passed a number of laws containing so-called "legislative veto" provisions, which allow the House (and/or the Senate) to prevent the implementation of a specific project or plan by the President, or executive agency, by adopting a resolution of disapproval. Sometimes such statutes contain provisions, enacted under the rule-making power of the House and Senate, giving a certain precedence to resolutions of disapproval when reported from committee or if not reported from committee within a certain time period.(16)

Prior to the adoption (since 1936) of certain requirements in the rules as to the time period before reports of committees could be considered in the House, privileged reports could be considered as soon as reported to the House. Now, however, with certain exceptions, reported measures may not be considered until the third calendar day, exclusive of Saturdays, Sundays, and legal holidays, on which the report has been available [as provided under Rule XI of the House rules (1979). For further discussion, see § 29, infra]. A similar requirement is placed on the consideration of general appropriation bills [see § 29, infra]. The requirement does not apply to: privileged reports from the Committee on Rules [as discussed in § 17, supra]; committee expense resolutions from the Committee on House Administration, which must be available for one day before consideration under Rule XI clause 5 [see § 29, infra]; declarations of war or of national emergencies; disapproval of executive decisions where compliance with the layover rule would prevent congressional disapproval; matters brought to the floor without committee reports; or certain reported measures called up as questions of privilege of the House or of constitutional privilege.(17) [Prior to the 94th Congress, all privileged reports from the Committees on House Administration and Standards of Official Conduct were also exempted from the rule.]

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(12) See § 29, infra, for reports on resolutions of inquiry. For reports on contempt of witnesses, see §§ 28.15–28.18, infra. For reports on vetoed bills, see § 28.7, infra.

(13) For conference reports and their privilege, see § 29, infra; Ch. 33, infra.

(14) For examples of such resolutions and concurrent resolutions, see § 29, infra.

(15) See § 29, infra.

(16) For the relevant texts of various statutes providing privileged procedures for congressional disapproval powers, see *House Rules and Manual* § 1013 (1979).

Conference reports are not privileged for consideration until the third calendar day (excluding Saturdays, Sundays, and legal holidays) after being filed and printed in the *Congressional Record*.(18)

Cross References

As to privileged matters at the convening of Congress, see Chs. 1, 2, supra.

As to the administration of the oath at the convening of Congress, see Ch. 2, supra.

As to election contests and privileged propositions related thereto, see Ch. 9, supra.

As to questions of privilege, their nature and precedence, see Ch. 11, supra.

As to questions of privilege arising from powers and prerogatives of the House, see Ch. 13, supra.

As to impeachment and privileged matters relating thereto, see Ch. 14, supra.

As to the call of the House in relation to privileged matters, see Ch. 20, supra.

As to motions and their privilege, see Ch. 23, infra.

As to motions and resolutions for adjournment and their privilege, see Ch. 40, infra.

As to the privilege of reports from the Committee on Rules, see § 17, supra.

As to the effect of resolutions from the Committee on Rules relating to precedence, see § 20, supra.

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17. For a detailed discussion of time requirements before considering committee reports, see Ch. 17, supra.

For the ruling of the Chair that a report and resolution offered from the floor and constituting a question of the privileges of the House was not required to lay over under Rule XI, see § 28.19, infra.

18. See § 29, infra.

Scope of Constitutional Privilege

§ 28.1 The Committee on Rules reported a resolution making in order and providing for the consideration of a nonprivileged resolution reported from the Committee on the Judiciary confirming the nomination of the Vice President, pursuant to the 25th amendment to the U.S. Constitution.

On Dec. 6, 1973, there was called up by the direction of the Committee on Rules the following resolution, which was adopted by the House:(19)

H. Res. 738

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 735) confirming the nomination of Gerald R. Ford, of the State of Michigan, to be Vice President of the United States. After general debate, which shall be confined to the resolution and shall continue not to exceed six hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the Committee shall rise and report the resolution to the House, and the previous question shall be considered as ordered on the resolution to final passage.

House Resolution 735 whose consideration was made in order by the special order was reported as a nonprivileged resolution by the Committee on the Judiciary on Dec. 4 and read as follows:(20)

Resolved, That the House of Representatives confirm the nomination of Gerald R. Ford, of the State of Michigan, to be Vice President of the United States.

Parliamentarian's Note: The resolution confirming the nomination of the Vice President was not construed as being privileged. Under contemporary practice and rulings, only vetoed bills and impeachment proposals are privileged business directly under the Constitution, because of their unique nature and the language of the relevant constitutional provisions. Other functions committed to the House under the United States Constitution have no inherent precedence over other business.(1)

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(19) 119 Cong. Rec. 39807, 39813, 93d Cong. 1st Sess.

(20) *Id.* at p. 39419.

(1) For earlier practice, where duties entrusted to the House under the Constitution were held privileged for consideration, see 1 Hinds' Precedents §§ 305–308 (census and apportionment privileged, overruled in 6 Cannon's Precedents § 48). See Ch. 8, § 1.2, supra, for another occasion where reapportionment legislation was held by the House to

If a question arising from the express or implied prerogatives of the House under the Constitution constitutes a question of the privileges of the House, under Rule IX, it may be raised in that manner by presenting a resolution for immediate consideration in the House.(2)

Certain types of concurrent resolutions relating to the procedures of the House and Senate, such as adjournment and joint sessions to hear the President and to conduct the electoral count, are also privileged under the Constitution.(3)

Vetoed Bills Privileged Under Constitution

§ 28.2 The motion to postpone further consideration of a veto message to a day certain is privileged and takes precedence over the question of passing the bill notwithstanding the objections of the President.

On Jan. 27, 1970, Speaker pro tempore Carl Albert, of Oklahoma, laid before the House a veto message from the President on H.R. 13111, making appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies. George H. Mahon, of Texas, Chairman of the Committee on Appropriations, was recognized for a preferential motion:(4)

THE SPEAKER PRO TEMPORE: The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

The question is: Will the House, on reconsideration, pass the bill H.R. 13111, the objections of the President to the contrary notwithstanding?

THE SPEAKER:(5) The Chair recognizes the gentleman from Texas (Mr. Mahon).

MR. MAHON: Mr. Speaker, I move that further consideration of the veto message from the President be postponed until tomorrow.

THE SPEAKER PRO TEMPORE: The gentleman from Texas (Mr. Mahon) is recognized on his motion.

Parliamentarian's Note: Veto messages are not considered before the approval of the Journal but take precedence over all other business except questions of the

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have no inherent privilege for consideration.

Contested-election cases were formerly brought up as questions of constitutional privilege but are now considered as privileged reports of the Committee on House Administration under Rule XI.

2. See §§ 28.12–28.21, infra.
3. See §§ 29.17, 29.18, infra (adjournment); § 29.19, infra (joint sessions).
4. 116 CONG. REC. 1365–68, 91st Cong. 2d Sess.
5. John W. McCormack (Mass.).

privileges of the House, the administration of the oath to Members, contested election cases, impeachment propositions, and unfinished business from a previous day on which the previous question has been ordered.[6]

§ 28.3 The consideration of a veto message is in order on Calendar Wednesday.

On May 11, 1932,[7] the House agreed to the motion to dispense with Calendar Wednesday business on that day, a veto message having been laid before the House. Speaker John N. Garner, of Texas, indicated that the motion was not necessary, due to the constitutional privilege of a veto message:

> THE SPEAKER: The Chair lays before the House the following message from the President of the United States.
>
> MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, this being Calendar Wednesday, ought not further business be dispensed with before we consider any other business?
>
> THE SPEAKER: Not necessarily.
>
> MR. STAFFORD: This is holy Wednesday.
>
> MR. [CHARLES R.] CRISP [of Georgia]: Is there any other business under Calendar Wednesday?
>
> MR. STAFFORD: No.
>
> MR. CRISP: Mr. Speaker, to save any question, I move that further business under Calendar Wednesday be dispensed with.
>
> The motion was agreed to.
>
> THE SPEAKER: Let the Chair say, however, in connection with this Calendar Wednesday rule, that it does not suspend the Constitution of the United States, which provides that a veto message of the President shall have immediate consideration. The Clerk will read the message.

§ 28.4 Consideration of a veto message on the day to which postponed is highly privileged and becomes the unfinished business.

On Jan. 27, 1970, Speaker pro tempore Carl Albert, of Oklahoma, laid before the House a message from the President, returning without his approval a bill (H.R. 13111) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies. The Speaker pro tempore then recognized George H. Mahon, of Texas, Chairman of the Committee on Appropriations, who moved to postpone the further consideration of the veto message until the following day. The Speaker pro tempore answered a parliamentary inquiry on the status of the message in the order of business on the following day:[8]

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[6] See § 31, infra, for the relative precedence of privileged questions.

[7] 75 CONG. REC. 10035-40, 72d Cong. 1st Sess.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, will the gentleman yield?

Mr. Mahon: I yield to the gentleman from Michigan.

Mr. Gerald R. Ford: Speaking for our side of the aisle, the gentleman is accurate. We are in full concurrence with the motion made by the gentleman from Texas.

I should like to ask this: Is our understanding correct that this will be the first order of business tomorrow?

Mr. Mahon: That is my understanding.

The Speaker Pro Tempore: The Chair will state, this is highly privileged business and it will be the first order of legislative business tomorrow.

On the following day, Jan. 28, the Journal was approved, a quorum call was had, and Speaker John W. McCormack, of Massachusetts, announced the unfinished business:[9]

The Speaker: The unfinished business is: Will the House, on reconsideration, pass the bill, H.R. 13111, an act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1970, and for other purposes, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Texas (Mr. Mahon) for 1 hour.

§ 28.5 Consideration of a veto message on the day to which it has been postponed is highly privileged and becomes the unfinished business following the approval of the Journal.[10]

§ 28.6 Where the House had postponed to a day certain a veto message and for the same day created a special order for the reading of Thomas Jefferson's First Inaugural Address, the veto message was first considered.

On Apr. 14, 1948, Speaker Joseph W. Martin, Jr., of Massachusetts, stated, following the approval of the Journal, the order of business: (1) the unfinished business, a veto message postponed to that day by motion; (2) the reading of Jefferson's First Inaugural Address by a Member designated by the Speaker pursuant to a special order for that day; and (3) unanimous-consent requests and one-minute speeches.[11]

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[8] 116 Cong. Rec. 1365–68, 91st Cong. 2d Sess.

[9] *Id.* at p. 1483.

[10] 94 Cong. Rec. 4427, 80th Cong. 2d Sess., Apr. 14, 1948; 116 Cong. Rec. 1483, 91st Cong. 2d Sess., Jan. 28, 1970; and 119 Cong. Rec. 36202, 93d Cong. 1st Sess., Nov. 7, 1973.

[11] 94 Cong. Rec. 4427, 80th Cong. 2d Sess.

§ 28.7 A report from a committee, to which a vetoed bill has been referred, recommending the passage of such bill over a veto is privileged for consideration.

On Aug. 17, 1951, a privileged report was filed by a committee to which a vetoed bill had been referred:[12]

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I submit a privileged report from the Committee on Veterans' Affairs on the bill (H.R. 3193) to establish a rate of pension for aid and attendance under part III of Veterans' Regulation No. 1 (a), as amended.

The Clerk read as follows:

> Your Committee on Veterans' Affairs, to whom was referred the bill, H.R. 3193, entitled "A bill to establish a rate of pension for aid and attendance under part III of Veterans' Regulation No. 1 (a), as amended," together with the objections of the President thereto, having reconsidered said bill and the objections of the President thereto, reports the same back to the House with the unanimous recommendation that said bill do pass, the objections of the President to the contrary notwithstanding.

The vetoed bill was immediately considered and, after debate, the veto was overridden by the House.

§ 28.8 A motion to discharge a committee from further consideration of a vetoed bill presents a question of the highest privilege.

On Sept. 7, 1965, Speaker pro tempore Carl Albert, of Oklahoma, recognized for a privileged motion to discharge a committee from the further consideration of a vetoed bill (referred to the committee on Aug. 23):[13]

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I rise to a question of the highest privilege of the House, based directly on the Constitution and precedents, and offer a motion.

THE SPEAKER PRO TEMPORE: The Clerk will report the motion.

The Clerk read as follows:

> Motion by Mr. Hall:
>
> *Resolved,* That the Committee on Armed Services be discharged from further consideration of the bill H.R. 8439, for military construction, with the President's veto thereon, and that the same be now considered.

In response to a parliamentary inquiry, the Speaker pro tempore stated that a motion was in order to table the motion to discharge. The House agreed to a motion to table offered by Mr. L. Mendel Rivers, of South Carolina.

Parliamentarian's Note: The Committee on Armed Services, to which had been referred the vetoed bill, had reported, previous to the motion to discharge, a similar bill (H.R. 10775) containing a revision of the language to which the President had objected in his veto message.

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[12] 97 CONG. REC. 10197, 82d Cong. 1st Sess.

[13] 111 CONG. REC. 22958, 22959, 89th Cong. 1st Sess.

Impeachment Propositions Privileged Under Constitution

§ 28.9 Charges of impeachment presented on the floor by a Member constitute a question of high constitutional privilege.

On Jan. 14, 1936, Speaker Joseph W. Byrns, of Tennessee, recognized for one hour a Member who rose to state a question of constitutional privilege:(14)

MR. [ROBERT A.] GREEN [of Florida]: Mr. Speaker, I realize that the time of adjournment has almost arrived, and I dislike to ask the indulgence of my colleagues for a few minutes, but I shall be just as brief as possible. I rise to a question of constitutional privilege.

THE SPEAKER: The gentleman will state it.

MR. GREEN: Mr. Speaker, I rise to a question of constitutional privilege. Mr. Speaker and Members of the House, on my own responsibility, as a Member of this House, I impeach Halsted L. Ritter, a United States district judge for the southern district of Florida, for high crimes and misdemeanors. In substantiation of this impeachment I specify the following charges: . . .

By motion, the charges were referred to the Committee on the Judiciary.

Similarly on Jan. 24, 1939, Mr. J. Parnell Thomas, of New Jersey, rose to a question of constitutional privilege and offered a resolution impeaching the Secretary of Labor and various other officials of the federal government. The House referred the resolution by motion to the Committee on the Judiciary.(15)

Parliamentarian's Note: An impeachment proposition which is constitutionally privileged under the precedents may even supersede election cases and the approval of the Journal.(16) A direct proposition to impeach a federal civil officer is a question of high privilege in the House, but a resolution proposing an investigation of charges, with the view towards impeachment, is not a privileged matter under the precedents.(17)

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14. 80 CONG. REC. 404, 74th Cong. 2d Sess.

15. 84 CONG. REC. 702–11, 76th Cong. 1st Sess.

16. See the discussion at § 31, infra; 3 Hinds' Precedents §§ 2045–2048; and 6 Cannon's Precedents §§ 468, 469.

17. See 3 Hinds' Precedents §§ 2050, 2546.

§ 28.10 A committee to which has been referred privileged resolutions for the impeachment of a federal civil officer may report and call up as privileged resolutions of impeachment and resolutions incidental to the impeachment question.

On Mar. 2, 1936, Hatton W. Sumners, of Texas, Chairman of the Committee on the Judiciary, called up for immediate consideration as a privileged matter House Resolution 422, impeaching U.S. District Court Judge Halsted Ritter. Charges of impeachment had been referred to the committee in the 74th Congress.(18) The House adopted the resolution impeaching Judge Ritter, who was later convicted of the impeachment charges by the Senate.

Parliamentarian's Note: A committee to which has been referred privileged resolutions for the impeachment of a federal civil officer may report and call up as privileged resolutions incidental to consideration of the impeachment question, such as resolutions authorizing the taking of testimony and the defrayment of investigatory expenses from the contingent fund of the House,(19) and resolutions providing for the selection of managers to prosecute the impeachment before the Senate.(20)

The report of the committee, to which charges have been referred, recommending against impeachment or recommending that the impeachment trial be abated, are also privileged.(1)

§ 28.11 The consideration of a conference report may be interrupted by a question of constitutional privilege involving the impeachment of a federal civil officer.

On Jan. 17, 1933, the House had agreed to a conference report and had not yet taken action on an amendment reported in disagreement by the conferees. Speaker John N. Garner, of Texas, ruled that a highly privileged constitutional question on impeachment took precedence over the further consideration of the amendment in disagreement:(2)

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(18) 80 Cong. Rec. 3066, 74th Cong. 2d Sess.

(19) See 6 Cannon's Precedents § 549.

(20) See 6 Cannon's Precedents § 517.

(1) See 6 Cannon's Precedents § 514; 84 Cong. Rec. 3273, 76th Cong. 1st Sess., Mar. 24, 1939.

(2) 76 Cong. Rec. 1953, 1954, 72d Cong. 2d Sess.

The Speaker: The conference report has been agreed to, but the amendment in disagreement has not been acted upon. It is the understanding of the Chair that a question of constitutional privilege may intervene between the agreement to the conference report and consideration of an amendment in disagreement. There is a hiatus there when the conference report has been agreed to and the House may go on, indefinitely, without considering the amendments in disagreement.

Mr. [Carl R.] Chindblom [of Illinois]: May I suggest to the Chair that the amendment in question is included in the conference report to the extent that the conferees report to the House that they have been unable to agree or have not agreed upon the amendment. Of course, it comes up as a part of the conference report. If it is not a part of the conference report, I respectfully submit to the Chair it has no privilege whatever and may not be called up at all except under a special rule, or until reached on the calendar.

The Speaker: The Chair is inclined to think that the philosophy of the rule would be that the conference report having been disposed of, the other question with respect to completing the consideration of the report may be delayed a day or two days if the House is disposed to do so and, in the meantime, a question of constitutional privilege can intervene.

Mr. Chindblom: May I add the further suggestion to the Chair that that might well be so if the gentleman in charge of the conference report waived his right?

Mr. [Joseph W.] Byrns [of Tennessee]: Of course I do not do that.

The Speaker: Let the Chair call the attention of the gentleman from Illinois to the rule with respect to questions of privilege:

> Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of Members individually, in their Representative capacity only, and shall have precedence of all other questions, except motions to adjourn.

It seems to the Chair this language is clear and that a question of constitutional privilege is undoubtedly in order at any time and only a motion to adjourn could interfere with it.

Questions of Privilege of the House

§ 28.12 A question of the privileges of the House arising under the Constitution, relating to the sole power of the House to originate revenue measures and alleging that the Senate, by its amendment to a House bill, has violated article I, section 7 of the United States Constitution, may be raised at any time when the House is in possession of the papers, and the question may even be presented pending the motion to call up the conference report on the bill.

On June 20, 1968, Mr. Wilbur D. Mills, of Arkansas, called up a conference report on H.R. 15415, the Revenue and Expenditure Act of 1968. Pending his request that the statement of the managers be read in lieu of the report, Mr. H. R. Gross, of Iowa, rose to a question of the privileges of the House and was recognized by Speaker pro tempore Charles M. Price, of Illinois:(3)

> THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Arkansas?
>
> MR. GROSS: Mr. Speaker, I rise to a question of privilege of the House and offer a resolution.
>
> THE SPEAKER PRO TEMPORE: The Clerk will report the resolution.
>
> The Clerk read the resolution, as follows:
>
> H. RES. 1222
>
> *Resolved*, That Senate amendments to the bill, H.R. 15414, in the opinion of the House, contravene the first clause of the seventh section of the first article of the Constitution of the United States, and are an infringement of the privileges of this House, and that the said bill, with amendments, be respectfully returned to the Senate with a message communicating this resolution.
>
> THE SPEAKER PRO TEMPORE: The gentleman from Iowa [Mr. Gross] is recognized for 1 hour.

Parliamentarian's Note: A question of the privileges of the House has the highest privilege for consideration in the House, superseding the approval of the Journal, although it has been held in the past that the consideration of a contested election case (considered at that time as a question of constitutional privilege) took precedence over such a question.(4) In presenting a question of the privileges of the House, however, the Member raising the question must present a resolution before being recognized, and must satisfy the Chair that the resolution properly constitutes a question of privilege under Rule IX and the precedents relating thereto.(5)

§ 28.13 A question involving a question of the privileges of the House under Rule IX takes precedence over District of Columbia business under Rule XXIV clause 8.

On Dec. 14, 1970, Speaker John W. McCormack, of Massachusetts, recognized Mr. Richard H. Ichord, of Missouri, to present a resolution under a question of the privileges of the House (asserting the privileges of the House with respect to the printing and publishing of a committee report which had been enjoined by a federal court) before recognizing the Chairman of the Committee on the District of Columbia for business reported from that committee. Under Rule XXIV clause 8, the regular order of business was the consideration of District of Columbia business.(6)

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(3) 114 CONG. REC. 17970, 90th Cong. 2d Sess.

(4) See § 31, infra.

(5) See Ch. 11, supra, for a complete discussion of questions of the privileges of the House (and of the Member).

§ 28.14 A subpena duces tecum served upon the Clerk of the House and transmitted by the Clerk to the Speaker was held to be a matter of the highest privilege (as a question of the privileges of the House) and to supersede the continuation of the call of committees under the Calendar Wednesday rule.

On Feb. 8, 1950,(7) Speaker Sam Rayburn, of Texas, overruled a point of order against the consideration of highly privileged business on Calendar Wednesday:

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, this is Calendar Wednesday, and I ask that the business of Calendar Wednesday proceed. I submit that the regular order is the continuation of the call of committees by the Clerk.

THE SPEAKER: The Chair at this time is going to lay before the House a matter of highest privilege.

The Speaker laid before the House a communication from the Clerk transmitting a subpena issued to him by a federal district court and directing the production of committee executive session material. There was offered and adopted a resolution in response to the subpena.

Resolutions and Reports on Contempt of Witnesses (Privilege of House)

§ 28.15 It is in order to call up at any time, as a question of the privileges of the House, a resolution directing the Speaker to certify an individual in contempt of the House or its committees.

On Aug. 2, 1946, Speaker Sam Rayburn, of Texas, indicated in response to a parliamentary inquiry that calling up a resolution, directing the Speaker to certify to the United States Attorney the refusal of a witness to testify, was a matter of the highest privilege:(8)

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6. 116 CONG. REC. 41355–74, 91st Cong. 2d Sess.
7. 96 CONG. REC. 1695, 81st Cong. 2d Sess.
8. 92 CONG. REC. 10746, 79th Cong. 2d Sess.

PROCEEDING AGAINST
RICHARD MORFORD

THE SPEAKER: For what purpose does the gentleman from Mississippi rise?

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I send to the Clerk's desk a privileged resolution and ask that it be read.

THE SPEAKER: The Clerk will read the resolution.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, has not the Speaker the power to determine the order of business by recognizing or not recognizing gentlemen requesting the consideration of various pieces of legislation? I make that parliamentary inquiry because there is very important business pending before the House—social security, appropriations for terminal-leave pay, and for automobiles for amputees—and I see no reason why this resolution should be given preference.

THE SPEAKER: It would not be given preference if it were an ordinary resolution, but this is a resolution of high privilege.

Parliamentarian's Note: A Member may make a point of order that a quorum is not present during the reading of a privileged report relating to the refusal of a witness to testify before a committee.[9]

Although the power to deal directly with the contempts of witnesses is implied in the United States Constitution, Congress has provided by statute for a criminal penalty and for a procedure whereby contempts are certified to the United States Attorney.[10]

§ 28.16 Reports from a committee on testimony which has purged a witness of contempt based upon his previous refusal to testify, and resolutions providing that the Speaker certify such reports to the United States Attorney, are privileged.

On July 23, 1954, a privileged report and resolution were submitted and immediately considered in the House:[11]

MR. [HAROLD H.] VELDE [of Illinois]: Mr. Speaker, by direction of the Committee on Un-American Activities, I submit a privileged report (Rept. No. 2472).

The Clerk read as follows:

IN THE MATTER OF FRANCIS X. T. CROWLEY

Mr. Velde, from the Committee on Un-American Activities, submitted the following report: . . .

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[9] 92 CONG. REC. 10592, 79th Cong. 2d Sess., July 31, 1946.

[10] For the power of the House to punish for contempt, see Ch. 13, supra.

[11] 100 CONG. REC. 11650, 83d Cong. 2d Sess.

Mr. Velde: Mr. Speaker, I offer a resolution (H. Res. 681) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved*, That the Speaker of the House of Representatives certify the report of the Committee on Un-American Activities of the House of Representatives concerning the action of Francis X. T. Crowley in purging himself of contempt of the House of Representatives of the United States, together with all the facts in connection therewith, under seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that legal proceedings based upon the matter certified by the Speaker pursuant to H. Res. 541, 83d Congress, second session, against the said Francis X. T. Crowley may be withdrawn and dropped in the manner and form provided by law.

Mr. Velde: Mr. Speaker, I yield such time as he may desire to the gentleman from California [Mr. Jackson].

§ 28.17 Reports from committees on the refusal of witnesses to testify, and resolutions providing that the Speaker certify a report on the refusal of a witness to testify to a United States Attorney are privileged for consideration.

On Apr. 9, 1952,(12) the Committee on Ways and Means submitted a privileged report which was immediately considered:

Mr. [Robert L.] Doughton [of North Carolina]: Mr. Speaker, by direction of the Committee on Ways and Means, I submit a privileged report (H. Rept. No. 1748).

The Speaker:(13) The Clerk will read the report.

The Clerk read the report.

(For House Report No. 1748, see proceedings of the House of Tuesday, April 8, 1952, pp. 3756–3773.)

Mr. Doughton: Mr. Speaker, I offer a privileged resolution (H. Res. 602) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved*, That the Speaker of the House of Representatives certify the report of the Committee on Ways and Means of the House of Representatives as to the willful and deliberate refusals of Henry W. Grunewald to answer questions and his willful and deliberate failures to produce books, records, and documents before the said Committee on Ways and Means, together with all of the facts in connection therewith, under seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that the said Henry W. Grunewald may be proceeded against in the manner and form provided by law.

Mr. Doughton: Mr. Speaker, I yield such time as he may care to use to the gentleman from California [Mr. King], chairman of the subcommittee of the Committee on Ways and Means on the Administration of the Internal Revenue Laws.

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12. 98 Cong. Rec. 3853, 3854, 82d Cong. 2d Sess.

13. Sam Rayburn (Tex.).

§ 28.18 A report of the Committee on Un-American Activities dealing with the contempt of a witness was considered on a Calendar Wednesday.

On June 26, 1946,[14] which was Calendar Wednesday under the rule, Mr. John S. Wood, of Georgia, called up a privileged report from the Committee on Un-American Activities, dealing with the contempt of a witness before the committee.

§ 28.19 A report relating to the refusal of a witness to respond to a subpena duces tecum issued by a committee gives rise to a question of the privileges of the House and, under Rule IX, may be considered on the same day reported notwithstanding the requirement of Rule XI clause 27(d)(4) [Rule XI clause 2(l)(6) in the 1979 House Rules and Manual] that reports from committees be available to Members for at least three calendar days prior to their consideration.

A resolution directing the Speaker to verify to the U.S. Attorney the refusal of a witness to respond to a subpena issued by a House committee may be offered from the floor as privileged, and a committee report to accompany the resolution may therefore be presented to the House without regard to the three-day availability requirement for other reports.

On July 13, 1971, Harley O. Staggers, of West Virginia, the Chairman of the Committee on Interstate and Foreign Commerce, rose to a question of the privileges of the House (relating to the refusal of a witness to respond to a subpena issued by said committee) and submitted a privileged report from the committee (H. Rept. No. 92-349). Mr. Sam M. Gibbons, of Florida, made a point of order against the consideration of the report and the accompanying resolution (H. Res. 534, directing the Speaker to certify to the United States Attorney the refusal of the witness to comply with the subpena). Mr. Gibbons' point of order was based on Rule XI clause 27(d)(4), which requires committee reports to be available for at least three calendar days before being considered in the House. After hearing extensive argument on the point of order, Speaker Carl Albert, of Oklahoma, overruled the point of order as follows:[15]

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[14] 92 Cong. Rec. 7589-91, 79th Cong. 2d Sess.

[15] 117 Cong. Rec. 24720-23, 92d Cong. 1st Sess.

The Chair is ready to rule.

The Chair appreciates the fact that the gentleman from Florida has furnished him with a copy of the point of order which he has raised and has given the Chair an opportunity to consider it.

The gentleman from Florida (Mr. Gibbons) makes a point of order against the consideration of the report from the Committee on Interstate and Foreign Commerce on the grounds that it has not been available to Members for at least 3 days as required by clause 27(d)(4) of rule XI. The Chair had been advised that such a point of order might be raised and has examined the problems involved.

The Chair has studied clause 27(d)(4) of rule XI and the legislative history in connection with its inclusion in the Legislative Reorganization Act of 1970. That clause provides that "a matter shall not be considered in the House unless the report has been available for at least 3 calendar days."

The Chair has also examined rule IX, which provides that:

> Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings . . . and shall have precedence of all other questions, except motions to adjourn.

Under the precedents, a resolution raising a question of the privileges of the House does not necessarily require a report from a committee. Immediate consideration of a question of privilege of the House is inherent in the whole concept of privilege. When a resolution is presented, the House may then make a determination regarding its disposition.

When a question is raised that a witness before a House committee has been contemptuous, it has always been recognized that the House has the implied power under the Constitution to deal directly with such conduct so far as is necessary to preserve and exercise its legislative authority. However, punishment for contemptuous conduct involving the refusal of a witness to testify or produce documents is now generally governed by law—Title II, United States Code, sections 192–194—which provides that whenever a witness fails or refuses to appear in response to a committee subpena, or fails or refuses to testify or produce documents in response thereto, such fact may be reported to the House. Those reports are of high privilege.

When a resolution raising a question of privilege of the House is submitted by a Member and called up as privileged, that resolution is also subject to immediate disposition as the House shall determine.

The implied power under the Constitution for the House to deal directly with matters necessary to preserve and exercise its legislative authority; the provision in rule IX that questions of privilege of the House shall have precedence of all other questions; and the fact that the report of the committee has been filed by the gentleman from West Virginia as privileged—all refute the argument that the 3-day layover requirement of clause 27(d)(4) applies in this situation.

The Chair holds that the report is of such high privilege under the inherent constitutional powers of the House and under rule IX that the provisions of clause 27(d)(4) of rule XI are not applicable.

Therefore, the Chair overrules the point of order.

The Clerk will continue to read the report.

Administration of Oath (Question of Privileges of House)

§ 28.20 Administration of the oath to a Member-elect is a matter of high privilege and is in order after the previous question is ordered on the pending question (a bill reported back from the Committee of the Whole to the House).

On Oct. 3, 1969, the Committee of the Whole rose and reported back to the House, with sundry amendments, a bill (H.R. 14000) authorizing appropriations for military procurement. Speaker John W. McCormack, of Massachusetts, stated that under the rule the previous question was ordered. Further proceedings were interrupted for the administration of the oath to a Member-elect:(16)

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts, Mr. Michael J. Harrington, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.

THE SPEAKER: Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. Harrington appeared at the bar of the House and took the oath of office.

Parliamentarian's Note: The oath was administered at such time as to allow the new Member to vote on the pending bill. (The administration of the oath to Members arises under the United States Constitution [art. VI, clause 3] but is presented as a question of the privileges of the House, which takes precedence over even the approval of the Journal.)(17)

It should be noted that most of the Members-elect are sworn in on the day on which the House convenes for a new Congress, and that the administration of the oath at that time has, by tradition and statute, a place in the order of business on opening day. For example, the election of the Speaker precedes the administration of the oath to Members.(18)

§ 28.21 Debate on a privileged resolution reported from the Committee on Rules was interrupted

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16. 115 CONG. REC. 28487, 91st Cong. 1st Sess.

17. See § 31, infra.

18. See 1 Hinds' Precedents §§ 212, 214. For business and procedure at the convening of the House generally, see Chs. 1, 2, supra.

to allow a new Member to take the oath of office.

On Dec. 24, 1963, there was under consideration in the House a resolution from the Committee on Rules making a special order of business (H. Res. 600, waiving points of order against a conference report). Debate on the resolution was interrupted for the privileged question of the administration of the oath to a new Member:(19)

> MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the gentleman from Texas, Mr. James Jarrel Pickle, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest and no question has been raised with regard to this election.
>
> THE SPEAKER:(20) Is there objection to the request of the gentleman from Oklahoma?
>
> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, reserving the right to object, and I am not going to object, I just wanted to observe that I have checked with our Texas people on this side and they tell me there is no contest about the gentleman's election.
>
> Mr. Speaker, I do not know how he is going to vote today. I rather assume he will vote against us. But I hope, with the indulgence of the Members on our side, if he has come up here from Texas to be here the day before Christmas, I think we ought to let him vote.
>
> Mr. Speaker, I withdraw my reservation.
>
> MR. ALBERT: Mr. Speaker, may I observe that the charity of our beloved minority leader becomes not only himself but the season.
>
> Mr. Pickle appeared at the bar of the House and took the oath of office.

Parliamentarian's Note: The request for unanimous consent that the oath be administered was necessary not to bring up the question of oath administration (which is highly privileged) but to actually allow the administration of the oath, the Member's-elect certificate of election not having arrived.

Question of Personal Privilege

§ 28.22 A question of personal privilege (as opposed to a question of the privileges of the House) cannot be raised before the approval of the Journal.

On Oct. 8, 1968,(1) before the reading and approval of the Journal, on a day when the House had ordered locked the doors to the Chamber (various calls of the House and privileged motions having interrupted the reading of the Journal) Speaker John W. McCormack, of Massachusetts, declined to recog-

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19. 109 CONG. REC. 25526, 88th Cong. 1st Sess.
20. John W. McCormack (Mass.).
1. 114 CONG. REC. 30214–16, 90th Cong. 2d Sess.

nize a Member on a question of personal privilege:

> MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker——
>
> THE SPEAKER: For what purpose does the gentleman from Ohio rise?
>
> MR. TAFT: Mr. Speaker, I have a privileged motion.
>
> MR. [SIDNEY R.] YATES [of Illinois]: A point of order, Mr. Speaker. That is not in order until the reading of the Journal has been completed.
>
> THE SPEAKER: Will the gentleman from Ohio state his privileged motion?
>
> MR. TAFT: Mr. Speaker, my motion is on a point of personal privilege.
>
> THE SPEAKER: Will the gentleman from Ohio state whether it is a point of personal privilege or a privileged motion?
>
> MR. TAFT: It is a privileged motion, and a motion of personal privilege.
>
> Under rule IX questions of personal privilege are privileged motions, ahead of the reading of the Journal.
>
> THE SPEAKER: The Chair will advise the gentleman that a question of personal privilege should be made later after the Journal has been disposed of.
>
> If the gentleman has a matter of privilege of the House, that is an entirely different situation.

When Mr. Taft again sought recognition and sought to raise a question of the privileges of the House, the Speaker heard the question and ruled that no question of the privileges of the House was stated. An appeal from the Speaker's ruling was laid on the table.

Parliamentarian's Note: Questions of personal privilege may not be raised in Committee of the Whole.

In presenting a question of personal privilege the Member does not submit a resolution but is recognized to discuss the issue presented, if the Chair finds that a question of personal privilege has been properly stated under Rule IX.[2] Questions of personal privilege take precedence over other business except contested election cases, impeachment propositions, questions of the privileges of the House, and approval of the Journal, but may not be presented while another Member has the floor.[3]

§ 28.23 While a question of privileges of the House is pending, the Chair does not recognize a Member to present a question of personal privilege.

On Apr. 20, 1936, Speaker Joseph W. Byrns, of Tennessee, ruled that a question of personal privilege could not be raised while another question of privilege (of the House) was pending:[4]

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[2] See Ch. 11, supra, for a discussion of questions of personal privilege.

[3] See § 31, infra. A question of personal privilege may supersede the consideration (or disposition) but not the presentation of a message from the President or the Senate.

Mr. [Thomas L.] Blanton [of Texas]: Mr. Speaker, I rise to a question of the privilege of the whole House and offer a privileged resolution, which I ask the Clerk to read.

The Clerk read as follows:

House Resolution 490

Whereas during the House proceedings on April 17, 1936, the gentleman from Washington [Mr. Zioncheck] attempted to speak out of order and to indulge in personalities, when he was admonished by the Chair, as follows—

Mr. [Marion A.] Zioncheck [of Washington]: Mr. Speaker, I rise to a point of personal privilege.

The Speaker: The gentleman cannot do that while another question of privilege is pending.

Parliamentarian's Note: Although highly privileged, a question of privilege may not be presented while another Member has the floor.[5] And a point of order, such as a point of order that a quorum is not present, or a point of order that the Member rising to a question of privilege has not presented a question of privilege, may interrupt a Member stating a question of privilege.[6]

A question of privilege is not entertained pending a vote on a motion to adjourn.[7]

§ 29. Certain Bills, Resolutions, and Reports

Under Rule XI clause 22,[8] specified committees have the right to report to the House at any time on certain subjects within their jurisdiction.[9]

Prior to the implementation of section 133(c) of the Legislative Reorganization Act of 1946 into the rules, in Rule XI clause 27(d)(4),[10] the right of reporting at any time was held to give the right to immediate consideration of such reports.(11) But Rule XI clause 27(d)(4) as of the 93d Congress required that committee reports on any matter, including privileged matter, be available for at least three calendar days (excluding Saturdays, Sundays, and legal holidays) before consideration, with the exception of reports from the Committees on House Administration, Appropriations, Rules, and Standards of Official Conduct. That clause was renumbered as Rule XI clause 2(l)(6) and amended effective Jan. 3, 1975, to exclude from the three-day layover requirement only the Committee on Rules, in the case of a privileged report.

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[4] 80 Cong. Rec. 5704, 74th Cong. 2d Sess.

[5] See 80 Cong. Rec. 3720, 74th Cong. 2d Sess., Mar. 13, 1936; 91 Cong. Rec. 7221–25, 79th Cong. 1st Sess., July 5, 1945; 92 Cong. Rec. 5216, 79th Cong. 2d Sess., May 17, 1946.

[6] See 84 Cong. Rec. 8468, 8469, 76th Cong. 1st Sess., June 30, 1939.

[7] 116 Cong. Rec. 11940, 91st Cong. 1st Sess., Apr. 15, 1970.

[8] *House Rules and Manual* § 726 (1973) [now Rule XI clause 4(a), *House Rules and Manual* § 726 (1979)].

[9] The privilege bestowed by the rule is limited to the subject matter specified in the rule; inclusion of other subjects may destroy the privilege of the proposition (see §§ 29.1–29.3, infra).

[10] *House Rules and Manual* § 735(d)(4) (1973).

General appropriation bills may not be considered, under Rule XXI clause 6 (clause 7 in the 95th Congress rules),(12) until hearings and a report have been available for at least three calendar days (excluding Saturdays, Sundays, and legal holidays), and reports from the Committee on House Administration on certain expenditures from the contingent fund may not be considered until available for at least one calendar day, under Rule XI clause 32 (clause 5 in the 95th Congress rules).(13) Reports from the Committee on Rules may be considered on the same day reported only if the question of consideration is agreed to by a two-thirds vote; a majority vote is required to adopt a resolution from the committee.(14)

A report by a committee which strictly constitutes a question of the privileges of the House, under Rule IX, is not subject to the three-day availability requirement of Rule XI clause 27(d)(4) [clause 2(l)(6) in the 95th Congress rules], as the requirement applies to matters merely privileged under the rules and not brought up for immediate consideration under Rule IX. But in order to obtain immediate consideration of such a report, a resolution constituting a question

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11. See 4 Hinds' Precedents §§ 3131, 3142–3147; 8 Cannon's Precedents §§ 2291, 2312.
12. *House Rules and Manual* § 848 (1973).
13. *House Rules and Manual* § 739a (1973). Prior to the 95th Congress, the one-day layover requirement applied only to reports from the Committee on House Administration on expenses for standing committees; in the 95th Congress the clause was extended to reports from that committee on expenses for committees, commissions, or other entities.
14. See § 18, supra, for the consideration of reports from the Committee on Rules.

of the privileges of the House must be offered for immediate consideration.(15)

Select committees may be given the right to report measures within their jurisdiction at any time,(16) although such authority does not waive the requirement of compliance with the three-day rule.

The three-day requirement also does not apply, pursuant to its own provisions, to consideration of a proposal disapproving or invalidating executive action which would otherwise become effective. The intent of that exemption is to prevent the three-day rule from precluding the exercise of disapproval under statutes granting that power to Congress. Nor does the rule apply to declarations of war or national emergencies.(17)

Reports from committees on resolutions disapproving executive actions may be made privileged by statutes so providing. The statute may provide that once the resolution of disapproval is reported from committee, a motion to consider the resolution is privileged, and that if the committee does not report a resolution of disapproval within a certain period of time, a motion to discharge the committee may be made as a privileged motion on the floor, followed by a motion to consider.(18) A small number of resolutions may be submitted from the floor as original and privileged propositions, such as concurrent resolutions for adjournment; concurrent resolutions for certain joint sessions; and resolutions electing Members to committees.(19)

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15. See § 28.19, supra. In the 94th and 95th Congresses, several resolutions reported from the Committee on House Administration, in part constituting questions of the privileges of the House (court cases in relation to the prerogatives of Congress), and in part disbursing expenses from the contingent fund (in order to assert such prerogatives), were considered as privileged after reported for three days under Rule XI clause 2(l)(6) (see H. Res. 899, H. Res. 1420, and H. Res. 1479, 94th Cong.; H. Res. 334, 95th Cong.).
16. See §§ 29.5, 29.6, infra.
17. See Rule XI clause 27(d)(4)(B), *House Rules and Manual* § 735(d)(4) (1973) [now Rule XI clause 2(l)(6) *House Rules and Manual* § 715 (1979)].
18. See §§ 29.11, infra. Committee reports are discussed extensively in Ch. 17, supra. For a compilation of relevant statutory provisions giving privilege to certain congressional veto resolutions, see *House Rules and Manual* § 1013 (1975 and 1977).
19. See §§ 29.12, 29.17–29.19, infra.

As indicated above, certain reports are privileged for consideration when reported from any committee. Examples are reports on vetoed bills, reports on resolutions of inquiry, and reports constituting questions of the privileges of the House, such as those relating to the contempt of a witness before a committee. (A resolution to certify the contempt to the United States Attorney is presented as a question of the privileges of the House.)(20) A conference report on any bill is privileged when reported by the conferees on the part of the House, but is subject to the three-day availability requirement specified in Rule XXVIII.(1)

In order to retain its privilege, a privileged report must be submitted as privileged from the floor while the House is in session (and not filed in the hopper). A committee may, however, obtain by unanimous consent permission to file a privileged report while the House is not in session.

Certain Senate-passed measures are privileged for consideration in the House: Senate bills similar to House bills already on the House Calendar; Senate amendments not requiring consideration in Committee of the Whole; Senate concurrent resolutions for adjournment; Senate amendments to House concurrent resolutions for adjournment; and Senate bills and amendments after the stage of disagreement has been reached. The request of the Senate for the return of a bill is also presented as privileged.(2)

Cross References

For further discussion of questions of privilege, see Ch. 11, supra.

As to committee reports and their privilege, see Ch. 17, supra.

For discussion of Discharge Calendar motions as privileged, see Ch. 18, supra.

As to calendars and the privilege of business on eligible days, see Ch. 22, infra.

As to bills and resolutions and their privilege generally, see Ch. 24, infra.

For discussion of appropriation bills as privileged, see Ch. 25, infra.

For discussion of Senate bills and amendments as privileged, see Ch. 32, infra.

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20. For resolutions of inquiry, see §§ 29.14–29.16, infra. For reports on vetoed bills, see § 28.7, supra. For resolutions brought up under a question of the privileges of the House, see §§ 28.12–28.19, supra.

1. *House Rules and Manual* § 912 (1979). See §§ 29.20–29.28, infra, for conference reports and their privilege. See also, Ch. 33 §§ 16, 22, infra, for a complete discussion of conference reports and their privilege.

2. See §§ 29.29–29.32, infra.

For discussion of conference reports as privileged, see Ch. 33, infra.
For discussion of business on the Speaker's table as privileged, see § 2, supra.
For discussion of unfinished and postponed business as privileged, see § 3, supra.
For discussion of Calendar Wednesday business as privileged, see § 4, supra.
For discussion of District of Columbia business as privileged, see § 5, supra.
For discussion of suspension of the rules as privileged, see § 10, supra.
For discussion of reports from the Committee on Rules as privileged, see § 17, supra.
For discussion of bills made in order by special rules as privileged, see §§ 19, 20, supra.

Scope of Privileged Reports

§ 29.1 The Speaker held that a rule giving privilege to a report from a certain committee permitted the inclusion of matters incidental to the main purpose so long as they tended toward the accomplishment of that end.

On May 21, 1958, a motion was made that the House resolve itself into the Committee of the Whole for the consideration of a bill, reported by the Committee on Interior and Insular Affairs, to provide for the admission of the State of Alaska into the Union, pursuant to the rule then in effect giving privilege to that committee for reports relating to the admission of new states. Speaker Sam Rayburn, of Texas, overruled a point of order against the motion, the point of order being based upon the inclusion in the bill of nonprivileged matter:[3]

> MR. [WAYNE N.] ASPINALL [of Colorado]: Mr. Speaker, by direction of the Committee on Interior and Insular Affairs and pursuant to rule XI, clause 20, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7999) to provide for the admission of the State of Alaska into the Union. . . .
>
> MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I desire to submit a point of order. . . .
>
> Mr. Speaker, I want to submit a point of order at this time that the bill is not privileged and, therefore, the motion that the House resolve itself into the Committee of the Whole House on the State of the Union is not in order at this time.
>
> THE SPEAKER: The Chair will hear the gentleman.
>
> MR. CANNON: Mr. Speaker, if this bill, H.R. 7999, is privileged at all, it is privileged under clause 20 of rule XI, authorizing the Committee on Interior and Insular Affairs to bring in a bill for admission of a new State. It must conform in every respect to the rule, or its privilege is destroyed.
>
> But, Mr. Speaker, this bill contains matter that is not privileged and under

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[3] 104 CONG. REC. 9212–16, 85th Cong. 2d Sess.

the very familiar rule with which all of us are thoroughly cognizant, the presence of unprivileged matter in a bill destroys the privilege of the bill. This bill carries provisions which are not privileged and, therefore, the entire bill is unprivileged and the committee has no authority to bring it to the floor at this time or in this manner.

For example, Mr. Speaker, the bill, although reported out by a legislative committee, carries appropriations. . . .

It will be argued, Mr. Speaker, possibly in the citation which has just been laid before the Speaker that under the rule giving privilege to certain bills reported from the Committee on Interior and Insular Affairs, nonprivileged matters included as necessary to the accomplishment of the purpose for which privilege is given are in order. But note, Mr. Speaker, the significant word "necessary". Any such nonprivileged material, in order to qualify under this decision, must be necessary—must be necessary to the accomplishment of the purpose of the bill.

Conversely, under the same rule, Mr. Speaker, matters which are not privileged and which are not necessary to the accomplishment of the purpose destroy the privilege of the bill. And again I emphasize the word "necessary".

Are any of these unprivileged provisions—or all of them—necessary? Are they necessary to the act of admission? Are they essentially accessory? Are all of them—or any one of them—necessary? Are they necessary in order to confer statehood under this bill?

Mr. Speaker no one can successfully contend that any of them are necessary in order to accomplish the purpose of the bill.

Therefore, it follows that being unprivileged—which no one will deny—and not being necessary to accomplish the act—which no one will affirm—they destroy the privilege of this bill and it cannot be brought to the floor by the Committee on Interior and Insular Affairs under the rule cited by the gentleman here this afternoon. . . .

The Speaker: Unless some other Members desire to be heard, the Chair is ready to rule. . . .

Clause 20 of rule 11 provides in part as follows:

> The following named committees shall have leave to report at any time: Committee on Interior and Insular Affairs, bills for the admission of a new State.

The admission of a new State into the Union is not the question here.

The question here presented, is one of procedure. . . .

It is contended that in the exercising of the right to report at any time committees may not include matters not specified by the rule within the privilege.

Mr. Speakers Carlisle, Reed, and Longworth had on various occasions to pass upon phases of this question, although they did not pass specifically on the question of the privilege of the Committee on Territories with respect to bills providing for the admission of new States.

In 1888, Mr. Speaker Carlisle—Hinds' Precedents, volume IV, section 4637—held that the rule giving privilege to reports from the Committee on Public Lands permits the including of matters necessary to accomplishment of the purpose for which privilege is given.

That would be the reply to a great deal of the argument that has been made as to the germaneness of this matter.

Mr. Speaker Reed, in 1896—Hinds' Precedents, volume IV, section 4638—in passing upon a similar question stated:

> The Chair thinks that this provision has always had a liberal construction, and will decide that it is a privileged matter.

Mr. Speaker Longworth, in 1927—Cannon's Precedents, volume VIII, section 2280—in passing upon the privilege of the Committee on Ways and Means to report at any time, stated:

> If a major feature of a bill reported from the Ways and Means Committee relates to revenue the bill is privileged.

This bill relates to the admission of a new State into the Union.

And matters accompanying the bill—

Further quoting Mr. Longworth—

> not strictly raising revenue but incidental to its main purpose do not destroy this privilege.

The bill before us is one to provide for the admission of the State of Alaska into the Union. Upon a close examination of the bill it will be found that all of the provisions contained therein are necessary for the accomplishment of that objective. It may be argued that some of them are incidental to the main purpose, but as long as they tend toward the accomplishment of that end, such incidental purposes do not destroy the privilege of the Committee on Interior and Insular Affairs to report and call up the pending bill.

It may be said, therefore, that where the major feature—and the Chair hopes the Members will listen to this—that where the major feature of the bill relates to the admission of a new State, lesser provisions incidental thereto do not destroy its privilege when reported by the Committee on Interior and Insular Affairs, and, therefore, for these and many other reasons, the Chair overrules the point of order.[4]

§ 29.2 The presence of nonprivileged matters in a bill that is otherwise privileged under the rules, destroys the privileged status of the entire bill.

On Apr. 8, 1935, a motion was made, by direction of the Committee on Rivers and Harbors, that the House resolve itself into the Committee of the Whole for the consideration of a bill relating to rivers and harbors. At that time, Rule XI clause 45 provided that the

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[4] See also § 28.10, supra, for the privilege of reports relating to impeachment, containing incidental matters, when reported from the committee investigating charges of impeachment.

Effective Jan. 3, 1975, Rule XI clause 4(a) was amended to delete the privilege given to the Committee on Interior and Insular Affairs on certain reports including those relating to admission of States.

Committee on Rivers and Harbors could report to the House at any time, as a privileged matter, bills relating to rivers and harbors. Speaker Joseph W. Byrns, of Tennessee, ruled, in response to a point of order, that the bill was not privileged for consideration since containing provisions relating to canals and inland waterways:(5)

Mr. [Joseph J.] Mansfield [of Texas]: Mr. Speaker, I move that the House now resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 6732) authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes. . . .

Mr. [Bertrand H.] Snell [of New York]: I make the point of order against the motion of the gentleman from Texas [Mr. Mansfield] on the ground that this is not a privileged bill, and therefore the motion is not in order. I do this not because I am opposed to the bill, because I am for it, but in order to keep the Record and the precedents of the House intact relative to the consideration of a river and harbor bill.

As a matter of fact, the Chairman of the Rules Committee and I had a word or two about this bill Saturday night. Originally, river and harbor bills were privileged bills, but in those days they were confined to river and harbor projects alone. In later years all of these river and harbor bills have contained various other matters, such as channels, canals, and artificial waterways, which are not privileged matter. Of course, the presence of unprivileged matter in a bill makes the bill itself unprivileged. If I remember correctly, the present distinguished Speaker made a ruling on this very same proposition some 12 or 15 years ago when he was acting as Chairman of Committee of the Whole, and as a further argument to sustain my position, I respectfully call attention of the Speaker to that decision.

I would like to say further that as far as I am concerned, if the Speaker sustains the point of order, which I believe he will, if the gentleman from Texas will ask unanimous consent to call up this bill, I doubt if there will be any opposition to considering it at this time. The point I am making now is simply for the purpose of maintaining the rules of the House, and not because I have any opposition to the bill. . . .

The Speaker: Clause 45 of rule XI, as it relates to the Committee on Rivers and Harbors, reads as follows, under the heading of Privileged Reports.

> The Committee on Rivers and Harbors, bills authorizing the improvement of rivers and harbors.

The bill which has been presented to the House not only relates to rivers and harbors but provides for other waterways.

There are quite a number of provisions in the bill, which it is unnecessary to point out, providing for inland waterways; for instance, from the Delaware River to Chesapeake Bay, the improvement of the Cape Cod Canal, and other provisions quite numerous which, in the opinion of the Chair, takes the bill from

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5. 79 Cong. Rec. 5250, 5251, 74th Cong. 1st Sess.

under the privilege provided in the rules.

The Chair feels constrained to follow the precedents heretofore established and the plain letter of the rule the Chair has read, which applies only to bills relating to rivers and harbors exclusively. In addition to this, the Chair will state that the Chair is informed that this bill was not presented to the House as privileged bills are, but was reported through the basket, rather than from the floor of the House.

The Chair therefore sustains the point of order.

§ 29.3 Although the Committee on Rules has authority under Rule XI clause 23 [now Rule XI clause 4(b), House Rules and Manual, 1979] to report as privileged a resolution creating a select House committee, the inclusion therein of a subject coming within the jurisdiction of another standing committee destroys its privilege, and it is therefore necessary for the committee to report a privileged resolution making in order the consideration of the nonprivileged matter reported by it.

On Jan. 31, 1973,(6) Mr. Ray J. Madden, of Indiana, called up by direction of the Committee on Rules House Resolution 176, a privileged order of business making in order the consideration of House Resolution 132, another resolution reported from the Committee on Rules creating a select committee. The first resolution was necessary since House Resolution 132 was not a privileged resolution under Rule XI clause 23 because of its reference to paying money from the contingent fund on vouchers approved by the Speaker (a matter within the jurisdiction of the Committee on House Administration).

House Resolution 176, which was adopted by the House, read as follows:

H. Res. 176

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of the resolution (H. Res. 132) to create a select committee to study the operation and implementation of rules X and XI of the Rules of the House of Representatives. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the previous question shall be considered as ordered on the resolution to its adoption or rejection.

Similarly on June 8, 1937, the House adopted a resolution from the Committee on Rules making in order the consideration of a bill

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6. 119 Cong. Rec. 2804, 93d Cong. 1st Sess.

from the Committee on Rules creating a joint committee, where the bill was not privileged for consideration (since providing payment of the joint committee's expenses from the contingent funds of the House and Senate):(7)

HOUSE RESOLUTION 226

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. J. Res. 155, a joint resolution to create a Joint Congressional Committee on Tax Evasion and Avoidance, and all points of order against said joint resolution are hereby waived. That after general debate, which shall be confined to the joint resolution and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the joint resolution for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit, with our without instructions.

Quorum Requirement for Privileged Report

§ 29.4 To retain the status of privileged business in the House, such business must be reported from standing committees when a quorum is present in such committees and a point of order that a committee quorum did not order the matter reported may be made at any time after the report is filed.

On May 11, 1950,(8) Speaker pro tempore John W. McCormack, of Massachusetts, ruled that a point of order could be raised against a privileged report of a standing committee on the grounds that the report was ordered reported without a quorum of the standing committee present:

MRS. [MARY T.] NORTON [of New Jersey]: Mr. Speaker, by direction of the Committee on House Administration, I offer a privileged resolution (H. Res. 495) and ask for its immediate consideration.

MR. [WAYNE L.] HAYS of Ohio: Mr. Speaker, I make a point of order against the consideration of the resolution on the ground that a quorum was not present when it was reported out of committee.

MRS. NORTON: Mr. Speaker, we did have a quorum present, but some Mem-

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7. 81 CONG. REC. 5442, 75th Cong. 1st Sess.

8. 96 CONG. REC. 6920, 81st Cong. 2d Sess.

ber may have slipped out of committee during the consideration of the resolution. I assumed that a quorum was present.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN of Michigan: May not the consideration of this resolution at this time be blocked by a point of order that a quorum is not present in the House?

THE SPEAKER PRO TEMPORE: Of course, the point of order that a quorum is not present may be made at any time.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. RANKIN: Mr. Speaker, it is too late to raise the point of order that a quorum was not present in the committee after it has reached the floor of the House. If no point of order is made in the committee, the presumption is that a quorum was present. To take any other attitude would virtually paralyze legislation. If no point of order was made at the time, the presumption then is that a quorum was present.

THE SPEAKER PRO TEMPORE: The Chair will state in response to the parliamentary inquiry that the point of order is properly addressed at this point because the resolution has just been reported to the House. The question as to whether or not the point of order will be sustained is an entirely different question.

The resolution was withdrawn from consideration.

Parliamentarian's Note: In reporting matters privileged under the rules, committees must comply with all reporting requirements in order to obtain consideration.

Select Committee Given Right to Report as Privileged

§ 29.5 A select committee given the right to report at any time makes its report from the floor as privileged.

On Dec. 15, 1931, Speaker John N. Garner, of Texas, answered a parliamentary inquiry in relation to a report submitted as privileged from the floor:[9]

> Mr. [Carl E.] Mapes [of Michigan], chairman of the Select Committee on Fiscal Relations Between the District of Columbia and the United States, submitted a bill (H.R. 5821) to provide for the taxation of incomes in the District of Columbia, to repeal certain provisions of law relating to the taxation of intangible personal property in the District of Columbia, for other purposes, together with a report (Report No. 2) upon the bill, which was referred to the Committee of the Whole House on the state of the Union and ordered printed.

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[9] 75 CONG. REC. 554, 72d Cong. 1st Sess.

Mr. [William H.] Stafford [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Stafford: Mr. Speaker, I would like to inquire whether the bill which was just submitted by the select committee is privileged.

The Speaker: The bill is privileged under a resolution passed by the last Congress. Section 4 of House Resolution 285, passed by the Seventy-first Congress, reads as follows:

> The committee shall have the right to report to the House at any time by a bill or bills, or otherwise, the results of its investigations.

The authority of this resolution was later extended by the act of February 23, 1931 (46 Stat. 1377).

§ 29.6 A special committee having been given the power to study a subject and report to the House, and making bills therefrom privileged, may report Senate bills as well as House bills under the privileged status given.

On Mar. 31, 1938, Mr. John J. Cochran, of Missouri, moved that the House resolve itself into the Committee of the Whole for the consideration of S. 3331 (government reorganization) reported from the Select Committee on Government Operations. Speaker William B. Bankhead, of Alabama, overruled a point of order against the consideration of the bill, the point of order being based on the argument that the bill was not privileged for consideration:[10]

Mr. [Gerald J.] Boileau [of Wisconsin]: Mr. Speaker, I make a point of order against the consideration of this bill at the present time. I grant, Mr. Speaker, that the committee has jurisdiction of the subject matter contained in the Senate bill.

I make the point of order, however, that the resolution setting up this committee and giving the committee privileged status gave privileged status only to House bills and not to Senate bills, and therefore the bill cannot be brought up in this manner.

The Speaker: The Chair just a few moments ago read into the Record the comprehensive powers of the select committee. The Chair is of the opinion that the point of order is not well taken, and, therefore, overrules the point of order.

The resolution creating the select committee, and giving it power to report bills as privileged, read as follows:[11]

> *Resolved*, That the Speaker of the House of Representatives be, and he is hereby, authorized to appoint a select committee of seven Members of the House to be known as the Select Committee on Government Organization,

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[10] 83 Cong. Rec. 4477, 75th Cong. 3d Sess.

[11] *Id.* at p. 4475.

for the purpose of considering and reporting upon the subject matter contained in the message of the President of the United States of January 12, 1937. All bills and resolutions introduced in the House proposing legislation concerning reorganization, coordination, consolidation, or abolition of, or reduction of personnel in organizations or units in the Government shall be referred by the Speaker to the said Select Committee on Government Organization. The said Select Committee on Government Organization is hereby authorized to report to the House at any time by bill or otherwise with recommendations upon any matters covered by this resolution; and any bill or resolution so reported shall be placed upon the calendar and have a privileged status.

Appropriation Bills

§ 29.7 The Speaker stated that the effect of a special rule providing for the consideration of a bill in Committee of the Whole is to give to the bill the privileged status for consideration that a general appropriation bill has (by making privileged the motion to resolve into the Committee of the Whole for the consideration thereof).

On June 28, 1930,(12) Mr. Fred S. Purnell, of Indiana, called up, by direction of the Committee on Rules, House Resolution 264, providing that upon the adoption of the resolution it be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a particular bill. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution and characterized the effect of such a resolution from the Committee on Rules:

> THE SPEAKER: The Chair is prepared to rule. It is not necessary to pass upon the question of whether the original rule for the consideration of this bill is still alive or not. The Chair, when the matter was originally submitted to him, informally expressed a grave doubt as to whether it would be considered alive. But this rule is an entirely different rule. It appears now for the first time for consideration. The Chair is aware that this bill has had a rather stormy passage. It has been twice rereferred to the committee, but as the bill now appears, so far as the Chair is advised, it is properly on the calendar as of June 24, 1930, and this special rule is properly reported to consider that bill. The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:
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> > At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee

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12. 72 CONG. REC. 11994, 11995, 71st Cong. 2d Sess.

of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.

Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

Parliamentarian's Note: A general appropriation bill is not privileged for consideration until printed hearings and a committee report have been available for at least three calendar days, under Rule XXI clause 6 [now Rule XXI clause 7, *House Rules and Manual* § 848 (1979)].[13]

§ 29.8 The House having agreed that consideration of a general appropriation bill take priority over all business except conference reports, the Speaker held that such agreement gave a higher privilege to the appropriation bill than consideration of resolutions disapproving reorganization plans, business in order under the "21-day discharge" rule, and other business unless the Committee on Appropriations yielded for that purpose, but that the House could reach legislation of lesser privilege by rejecting the motion that the House resolve itself into the Committee of the Whole.

On May 9, 1950, Speaker pro tempore John W. McCormack, of Massachusetts, overruled a point of order against a motion that the House resolve itself into Committee of the Whole for the consideration of a general appropriation bill given precedence by a unanimous-consent agreement:[14]

General Appropriation Bill, 1951

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7786) making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes.

Mr. [Clare E.] Hoffman of Michigan: Mr. Speaker, I make the point of order that the House is not proceeding in the regular order because under section 205a of the Reorganization Act, which is Public Law 109 of the Eighty-first Congress, first session, any Member of the House is privileged, and this is a highly privileged motion, to make the motion that the House proceed to the consideration of House Resolution 516.

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[13] By unanimous consent or by special rule a general appropriation bill may be made in order before hearings and a report have been available as required by the rule. See 108 Cong. Rec. 10427, 87th Cong. 2d Sess., June 13, 1962; and 108 Cong. Rec. 10481, 87th Cong. 2d Sess., June 14, 1962.

[14] 96 Cong. Rec. 6720–24, 81st Cong. 2d Sess.

The gentleman from Michigan being on his feet to present this highly privileged motion, the regular order is that he be recognized for that purpose that the motion be entertained and the question put before the House, and my motion is that the House proceed to the consideration of House Resolution 516. . . .

The Speaker Pro Tempore: The Chair is prepared to rule.

The gentleman from Michigan makes a point of order, the substance of which is that the motion he desires to make or that someone else should make in relation to the consideration of a disapproving resolution of one of the reorganization plans takes precedence over the appropriation bill insofar as recognition by the Chair is concerned. The gentleman from Michigan raises a very serious question and the Chair feels at this particular time that it is well that he did so.

The question involved is not a constitutional question but one relating to the rules of the House and to the Legislative Reorganization Act of 1949 which has been alluded to by the gentleman from Michigan and other Members when addressing the Chair on this point of order. The Chair calls attention to the language of paragraph (b) of section 201 of title II of the Reorganization Act of 1949 which reads as follows: "with full recognition of the constitutional right of either House to change such rules so far as relating to procedure in such House at any time in the same manner and to the same extent as in the case of any other rule of such House."

It is very plain from that language that the intent of Congress was to recognize the reservation to each House of certain inherent powers which are necessary for either House to function to meet a particular situation or to carry out its will.

On April 5, the gentleman from Missouri [Mr. Cannon], chairman of the Committee on Appropriations, submitted a unanimous-consent request to the House, which was granted, which has the force of a rule, and which relates to the rules of the House governing the consideration of the omnibus appropriation bill while it is before the House and, of course, incidentally affecting other legislation. The consent request submitted by the gentleman from Missouri was "that the general appropriation bill for the fiscal year 1951 have right-of-way over all other privileged business under the rules until disposition, with the exception of conference reports."

That request was granted by unanimous consent. On the next day the gentleman from Missouri [Mr. Cannon], in correcting and interpreting the consent request granted on April 5, submitted a further unanimous-consent request. . . .

The Chair will state that the House always has a constitutional right and power to refuse to go into the Committee of the Whole on any motion made by any Member, so that the House is capable of carrying out its will, whatever may be the will of the majority of the House.

Continuing, the Chair will state that in the opinion of the present occupant, in view of the unanimous-consent request made by the gentleman from Missouri and granted by the House, if any member of the Appropriations Committee moves that the House resolve itself into the Committee of the Whole on the State of the Union to consider the appropriation bill, that motion has preference over any other preferential motion. It is a matter that the House decides when the motion is made as to what it wants to do and it has an opportunity when that motion is made to carry out its will. . . .

. . . In relation to the observation made by the gentleman from Michigan [Mr. Hoffman] that because other business has been brought up and that therefore constitutes a violation of the unanimous-consent request, the Chair, recognizing the logic of the argument, disagrees with it because that action was done through the sufferance of the Appropriations Committee and, in the opinion of the Chair, does not constitute a violation in any way; therefore does not obviate the meaning and effect of the unanimous-consent request heretofore entered into, and which the Chair has referred to.

For the reasons stated, the Chair overrules the point of order.

§ 29.9 A joint resolution providing supplemental appropriations for a single agency (and not a general appropriation bill), previously made in order by unanimous consent, is called up as privileged.

On Mar. 25, 1969, the Chairman of the Committee on Appropriations called up as privileged a joint resolution, not privileged under the rules:[15]

Mr. [George H.] Mahon [of Texas]: Mr. Speaker, pursuant to the unanimous-consent agreement on yesterday, I call up House Joint Resolution 584, making a supplemental appropriation for the fiscal year ending June 30, 1969, and for other purposes, and ask unanimous consent that the joint resolution be considered in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution.

The Speaker:[16] Is there objection to the request of the gentleman from Texas?

There was no objection.

Parliamentarian's Note: Only "general" appropriation bills are privileged for consideration under Rule XVI clause 9, and are filed as privileged from the floor. For discussion as to the definition of general appropriation bills, see Ch. 25, infra.

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[15] 115 Cong. Rec. 7378, 91st Cong. 1st Sess.

[16] John W. McCormack (Mass.).

§ 29.10 The consideration of general appropriation bills on District of Columbia Monday is of equal privilege with bills called up by the Committee on the District of Columbia; thus it is within the discretion of the Chair as to which business he will recognize for first.

Jan. 25, 1932, was a Monday and a day eligible for District of Columbia business. Also scheduled for consideration was the Department of Agriculture appropriation bill. Under his power of recognition, Speaker John N. Garner, of Texas, first recognized Mrs. Mary T. Norton, of New Jersey, to call up a bill by direction of the Committee on the District of Columbia. Following the rejection of the previous question thereon, the Speaker recognized Mr. James P. Buchanan, of Texas, to move that the House resolve itself into the Committee of the Whole for the consideration of the general appropriation bill.(17)

Parliamentarian's Note: The District of Columbia bill was called up as unfinished business on the succeeding District Day when, after debate, the previous question was ordered and the bill passed.

Resolutions Privileged by Statute

§ 29.11 A motion to consider a resolution, disapproving a reorganization plan formulated by the executive branch, may be made privileged by a statute so providing.

A motion that the House resolve itself into the Committee of the Whole to consider a resolution disapproving a reorganization plan is privileged (under the Legislative Reorganization Act of 1949).

On July 6, 1959, Speaker Sam Rayburn, of Texas, recognized for a privileged motion to consider a disapproval resolution:(18)

> MR. [DANTE B.] FASCELL [of Florida]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 295) to disapprove Reorganization Plan No. 1 of 1959.
>
> The motion was agreed to.
>
> Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 295, to disapprove Reorganization Plan No. 1 of 1959, with Mr. Udall in the chair.
>
> The Clerk read the title of the resolution.

Parliamentarian's Note: The Reorganization Act of 1949, 63 Stat.

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17. 75 CONG. REC. 2656-60, 72d Cong. 1st Sess.

18. 105 CONG. REC. 12740, 86th Cong. 1st Sess.

203, 5 USC §§ 905–913, provided in section 205(a) that following the report of the committee on a resolution with respect to a reorganization plan, it would be in order at any time thereafter "to move to proceed to the consideration of such resolution."

The act also provided, in section 204, for a privileged motion to discharge the committee from further consideration of such a resolution not reported in 10 calendar days. In the event the motion to discharge were agreed to, the privileged motion for consideration in section 205 would apply.

Those provisions of the Government Reorganization Act are typical of other statutes allowing a privileged procedure for considering disapproval resolutions [see *House Rules and Manual* § 1013 (1975 and 1977) for a compilation of such statutes]. In every case, however, the statute should be consulted for specific applicable procedures. The House may, by unanimous consent or otherwise, vary the consideration regardless of the statutory provisions.

Resolution Electing Members to Committees

§ 29.12 A resolution providing for the election of a Member to a committee of the House is presented as privileged.

On Oct. 18, 1966, Speaker John W. McCormack, of Massachusetts, recognized Mr. Wilbur D. Mills, of Arkansas (the chairman of the majority party's committee on committees), on several resolutions, relating to the organization of the House, as privileged matters:(19)

> MR. MILLS: Mr. Speaker, I offer a privileged resolution (H. Res. 1066) and ask for its immediate consideration.
>
> The Clerk read the resolution as follows:
>
> H. RES. 1066
>
> *Resolved,* That Richard L. Ottinger, of New York, be, and he is hereby, elected a member of the standing Committee of the House of Representatives on Interstate and Foreign Commerce.

Parliamentarian's Note: Under Rule X clause 6(a)(1), which became effective Jan. 3, 1975, resolutions electing Members to standing committees are privileged when offered on behalf of the respective party caucuses.

§ 29.13 A resolution providing for the election of the chairman of a standing committee of the House is called up as privileged.

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19. 112 CONG. REC. 27486, 89th Cong. 2d Sess.

On Nov. 18, 1970, a resolution relating to the organization of the House was called up as privileged by the chairman of the majority party's committee on committees:(20)

> MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I offer a privileged resolution (H. Res. 1263) and ask for its immediate consideration.
>
> The Clerk read the resolution as follows:
>
> H. RES. 1263
>
> *Resolved*, That Chet Holifield, of California, be, and he is hereby, elected Chairman of the standing committee of the House of Representatives on Government Operations.
>
> The resolution was agreed to.
>
> A motion to reconsider was laid on the table.

Parliamentarian's Note: Under Rule X clause 6(b), which became effective Jan. 3, 1975, resolutions electing chairmen of standing committees are privileged when offered on behalf of the majority party caucus.

Resolutions of Inquiry

§ 29.14 Resolutions of inquiry when reported from a committee are privileged and may be considered at any time (subject to the three-day layover requirement of Rule XI clause 2(l)(6) in current practice).

On May 14, 1932, Mr. Charles R. Crisp, of Georgia, of the Committee on Ways and Means, called up as privileged a report of the committee on a resolution of inquiry (H. Res. 213) which had been referred to the committee. He explained the privilege of his motion as follows:(1)

> MR. CRISP: Mr. Speaker, the gentleman from South Carolina [Mr. Fulmer] introduced this resolution, asking for the evidence presented to the Treasury Department on an application to invoke the antidumping law in respect to the importation of sulphate ammonium, which is now on the free list. The Treasury Department has not yet decided the case or reached a decision in the matter. Under the rules of the House, as we all know, a resolution of inquiry is privileged, and unless a report within seven days is made, a motion to discharge the committee from further consideration of the resolution is privileged. In the committee there was some opposition to the resolution. The committee adopted an amendment which they recommend to the House to accept, to the effect that the Secretary of the Treasury be requested to send the information if it is not incompatible with the public interest. Those are the facts in the case.

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20. 116 CONG. REC. 37823, 91st Cong. 2d Sess.

1. 75 CONG. REC. 10207, 72d Cong. 1st Sess.

Parliamentarian's Note: Although a motion to discharge, offered after the prescribed time period, may bring a resolution of inquiry directly to the floor, the motion may not be made after the committee has reported the resolution to the House. When such a report is made, it must be available for three calendar days, under Rule XI clause 27(d)(4) [now Rule XI clause 2(l)(6), *House Rules and Manual* § 715 (1979)], before being called up as privileged.

§ 29.15 A report by a committee on a resolution of inquiry in the form specified by the rule (Rule XXII clause 5) is privileged business, and if the committee does not report the resolution within seven legislative days, the resolution may be called up as a matter of privilege by a motion to discharge.

On Feb. 9, 1950, a committee report on a resolution of inquiry was called up as privileged:(2)

MR. [JOHN] KEE [of West Virginia]: Mr. Speaker, by direction of the Committee on Foreign Affairs, I present a privileged resolution (H. Res. 452) and ask for its immediate consideration.

THE SPEAKER:(3) The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That the President be and is requested, if not incompatible with the public interest, to furnish this House within 15 days after the adoption of this resolution with full and complete answers to the following questions, namely: . . .

Speaker Rayburn answered a parliamentary inquiry on the privileged nature of resolutions of inquiry:(4)

THE SPEAKER: A parliamentary question is involved there with which the gentleman is perhaps not familiar.

MR. [JOHN] PHILLIPS of California: Would the Speaker care to enlighten me on the parliamentary question?

THE SPEAKER: It is that if the committee does not report the resolution within 7 days, the gentleman from Connecticut may call it up.

MR. PHILLIPS of California: Is the Speaker saying that the report had to be acted upon in 7 days?

THE SPEAKER: By the committee or by the House. If the committee does not report it within seven legislative days, the gentleman from Connecticut can call it up. The committee has considered it, so the gentleman from West Virginia has said. The committee has the answers. It considered them, and it took action. The gentleman has now reported this resolution unfavorably and is going to move to lay it on the table. That is the usual course. It is done many times every year.

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2. 96 CONG. REC. 1753, 81st Cong. 2d Sess.
3. Sam Rayburn (Tex.).
4. 96 CONG. REC. 1755, 81st Cong. 2d Sess.

Parliamentarian's Note: A resolution of inquiry reported adversely from committee, as well as one reported favorably, is privileged for consideration.(5)

§ 29.16 A report from the Committee on Rules, prescribing an order of business, takes precedence over a privileged motion to discharge a committee from further consideration of a resolution of inquiry.

On Feb. 2, 1923, Mr. Louis C. Cramton, of Michigan, sought recognition to move to discharge the Committee on the Judiciary from the further consideration of a resolution of inquiry directed to the Secretary of the Treasury, such motion having privileged status under Rule XXII clause 5. Mr. Philip P. Campbell, of Kansas, also arose seeking recognition to call up from the Committee on Rules a privileged report making an order of business. Speaker Frederick H. Gillett, of Massachusetts, ruled as follows on the question of precedence between the two privileged matters:

> After debate,
>
> The Speaker said:
>
> "The Chair very often recognizes a person without knowing what motion that person is going to make. But that, the Chair thinks, does not give them any right. The question always is, Which gentleman has the motion of higher privilege? And every recognition of the Chair is provisional and subject to some other Member having a matter of higher privilege. The question on which the Chair would like to hear from the gentleman is, Which has the higher privilege—a resolution from the Committee on Rules or a motion to discharge a committee? . . . The Chair finds no precedent on the matter except one by Speaker Reed in which he said, 'This is a privileged question, but not a question of privilege.' Now, if it were a question of privilege the Chair would be disposed to think that the reason it was privileged was because it affected the privileges of the House, but this seems to negative that. If it is a privileged question it is, as the gentleman from Tennessee suggests— . . . It is on a level with a report from a privileged committee. Now, a report from the Committee on Rules always has precedence over that, because the rule expressly says that it shall always be in order to call up a report from the Committee on Rules. The Chair thinks the Committee on Rules has precedence, and the gentleman from Kansas [Mr. Campbell] is recognized."

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5. See 77 Cong. Rec. 5054, 73d Cong. 1st Sess., June 5, 1933; and 111 Cong. Rec. 24030, 24033, 89th Cong. 1st Sess., Sept. 16, 1965.

An appeal was taken from the Chair's decision but was laid on the table.(6)

Concurrent Resolution for Adjournment

§ 29.17 A concurrent resolution providing for adjournment of the two Houses to a day certain is called up as privileged.

On Aug. 28, 1967, the Majority Leader, Carl Albert, of Oklahoma, called up as privileged a concurrent resolution, which Speaker John W. McCormack, of Massachusetts, ruled was not subject to debate:(7)

> MR. ALBERT: Mr. Speaker, I call up House Concurrent Resolution 497 and ask for its immediate consideration.
>
> The Clerk read the concurrent resolution as follows:
>
> H. CON. RES. 497
>
> *Resolved by the House of Representatives (the Senate concurring)*, That the two Houses shall adjourn on Thursday, August 31, 1967, and that when they adjourn on said day they stand adjourned until 12 o'clock noon on Monday, September 11, 1967.
>
> MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I move to strike the last word.
>
> THE SPEAKER: The Chair will state that this is not a debatable resolution.

Parliamentarian's Note: A concurrent resolution providing for the adjournment of the House to a day certain or to such earlier day as the House is reassembled by the Speaker, and a Senate concurrent resolution providing for an adjournment of that House for more than three days are likewise privileged for immediate consideration.(8)

The high privilege of a concurrent resolution for adjournment for more than three days or *sine die* is drawn from article I, section 5, clause 4 of the United States Constitution, which requires the consent of either House for the adjournment for more than three days of the other House.(9)

§ 29.18 A Senate amendment to a House concurrent resolution providing for adjournment sine die is

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6. H. Jour. 225, 67th Cong. 4th Sess., Feb. 15, 1923.
7. 113 CONG. REC. 24201, 90th Cong. 1st Sess.
8. See 115 CONG. REC. 35539, 91st Cong. 1st Sess., Nov. 24, 1969; and 116 CONG. REC. 24978, 91st Cong. 2d Sess., July 20, 1970.
9. See Ch. 40, infra, for the privilege of propositions relative to adjournment. The motion to adjourn is a privileged motion under Rule XVI clause 4, *House Rules and Manual* § 782 (1979).

privileged and may be called up for immediate consideration.

On Oct. 22, 1965, a House concurrent resolution with a Senate amendment thereto was called up as a privileged matter: (10)

The Speaker:(11) The Chair lays before the House the following concurrent resolution, with a Senate amendment thereto.

The Clerk read as follows:

> *Resolved,* That the concurrent resolution from the House of Representatives (H. Con. Res. 527) entitled "Concurrent resolution establishing that when the two Houses adjourn on Friday, October 22, 1965, they stand adjourned sine dic", do pass with the following amendment:
>
> Page 2, line 3, strike out "Friday, October 22, 1965," and insert "Saturday, October 23, 1965,".

The House concurrent resolution as amended was agreed to.

Concurrent Resolution for Joint Session

§ 29.19 Concurrent resolutions providing for joint sessions of the House and Senate to receive messages from the President and to count electoral votes are privileged for consideration.

On May 20, 1935, Speaker Joseph W. Byrns, of Tennessee, ruled that a concurrent resolution relating to a joint session to receive a message from the President was privileged:(12)

Mr. [Edward T.] Taylor of Colorado: Mr. Speaker, my understanding is that the President of the United States desires to deliver a message to a joint assembly of the House and the Senate on next Wednesday. For this purpose I offer the following resolution for immediate consideration:

The Clerk read as follows:

House Concurrent Resolution 22

> *Resolved by the House of Representatives (the Senate concurring),* That the two Houses of Congress assemble in the Hall of the House of Representatives on Wednesday, the 22d day of May 1935, at 12:30 o'clock in the afternoon for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

The Speaker: The question is on the resolution.

Mr. [Thomas L.] Blanton [of Texas]: Mr. Speaker, reserving the right to object, I wish to ask a question.

The Speaker: The Chair is of the opinion that this is a privileged resolution.

Mr. Blanton: It is something unprecedented; I have not heard of it since I have been in Congress.

Mr. [John J.] O'Connor [of New York]: Mr. Speaker, I demand the regular order.

The Speaker: The regular order is that the gentleman from Colorado has the floor.

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10. 111 Cong. Rec. 28653, 89th Cong. 1st Sess.
11. John W. McCormack (Mass.).
12. 79 Cong. Rec. 7838, 74th Cong. 1st Sess.

Mr. Taylor of Colorado: Mr. Speaker, I move the previous question on the resolution.

On Jan. 3, 1969, a Senate concurrent resolution providing for a joint session to count the electoral vote was called up as privileged in the House:[13]

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I call up a Senate Concurrent Resolution (S. Con. Res. 1) and ask for its immediate consideration.

The Clerk read the Senate Concurrent Resolution, as follows:

S. Con. Res. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Monday, the 6th day of January 1969, at 1 o'clock postmeridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President pro tempore of the Senate shall be their presiding officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President pro tempore of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President pro tempore of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

Parliamentarian's Note: The privilege of certain concurrent resolutions providing for joint sessions of the House and Senate arises from the United States Constitution. Article II, section 3 of the Constitution provides for the President to give to the Congress information on the state of the Union, and to recommend to their consideration such measures as he shall judge necessary and expedient. Thus a concurrent resolution providing for a joint session to hear the President is of high privilege.[14]

The 12th amendment to the Constitution provides that the President of the Senate shall, in the presence of the Senate and House of Representatives, count the electoral vote transmitted by the electors for President and Vice-President of the United States. While title 3, section 15 of the United States Code provides the time and procedure for the electoral count, the two Houses provide by concurrent resolution, traditionally originated by the Senate, for the time and procedure (incorporating the provisions of the statute). Propositions and bills relating to the electoral count are of the highest constitutional privilege.(15)

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[13] 115 Cong. Rec. 36, 91st Cong. 1st Sess.

[14] See, for example, 8 Cannon's Precedents § 3335. For messages and ceremonies generally, see Chs. 35, 36, infra.

Conference Reports

§ 29.20 The consideration of a conference report is privileged business and the calling up of such a report does not require unanimous consent (where the report has been printed in the Record for three calendar days under Rule XXVIII clause 2(a)).

On Sept. 2, 1959, a conference report was called up and Speaker Sam Rayburn, of Texas, ruled that an objection did not lie to prevent the consideration of the report:(16)

MR. [WRIGHT] PATMAN [of Texas]: If I do not object to the reading, that does not foreclose me from objecting to the consideration of the conference report?

THE SPEAKER: This is a privileged matter. No objection lies.

MR. PATMAN: No objection lies on this? The Speaker is talking about the reading?

THE SPEAKER: The Chair is talking about the conference report, which is a privileged matter.

MR. PATMAN: And one objection would not lie to it?

THE SPEAKER: No objection would.(17)

§ 29.21 The filing of a conference report is a privileged matter and the presentation of such a report does not require unanimous consent.

On Aug. 1, 1968, Speaker pro tempore Chet Holifield, of California, answered a parliamentary inquiry on the privileged status of filing a conference report:(18)

Mr. [Graham B.] Purcell [of Texas] submitted a conference report and statement on the bill (H.R. 16363) to clarify and otherwise amend the Poultry Products Inspection Act, to provide for cooperation with appropriate State agencies with respect to State

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15. See, for example 3 Hinds' Precedents §§ 2573–2578.
16. 105 CONG. REC. 17769, 86th Cong. 1st Sess.
17. Conference reports are taken up in detail at Ch. 33 §§ 16, 22, infra.
18. 114 CONG. REC. 24806, 90th Cong. 2d Sess.

poultry products inspection programs, and for other purposes.

Mr. [Wiley] Mayne [of Iowa]: Mr. Speaker, a parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state the parliamentary inquiry.

Mr. Mayne: Mr. Speaker, I wish to object to the filing of the conference report on the ground that it is not in proper form. I am a conferee and I have not had an opportunity to see the report.

The Speaker Pro Tempore: That is a matter that the gentleman should take up with the gentleman from Texas. The Chair has no knowledge of the conference report except that it is being filed.

Mr. Mayne: Mr. Speaker, I wish to have the record made clear that I do object to its filing for the reason that it is not in the proper form.

The Speaker Pro Tempore: The gentleman's statement will appear in the Record.

§ 29.22 A conference report is not privileged for consideration in the House until it has been printed in the Record three days (excluding Saturdays and Sundays if the House is not in session on those days) prior to consideration.

On Oct. 17, 1972, Mr. Wilbur D. Mills, of Arkansas, called up a conference report on a bill (H.R. 16810, relating to public debt limitation) and asked unanimous consent that the statement of the managers be read in lieu of the report. Objection was made to the request. Speaker Carl Albert, of Oklahoma, answered a parliamentary inquiry relating to the requirement, in Rule XXVIII clause 2(a), that conference reports lay over for a certain period of time before consideration:[19]

Mr. Mills of Arkansas (during the reading): Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Mills of Arkansas: Mr. Speaker, is it true that this conference report not having laid over for 3 days cannot be called up except by unanimous consent?

The Speaker: That is correct.

Mr. Mills of Arkansas: Mr. Speaker, I withdraw my request for consideration of the conference report.

The Speaker: The gentleman from Arkansas withdraws his request for consideration of the conference report.

§ 29.23 Conference reports in complete disagreement and the joint statement of the conferees must be printed in the Record for three calendar days and be available on the floor before the conference report and the Senate amendment in disagreement are privileged for consideration in the

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[19] 118 Cong. Rec. 36938, 92d Cong. 2d Sess.

House, under Rule XXVIII clause 2(b).

On June 29, 1973, Mr. Wilbur D. Mills, of Arkansas, asked unanimous consent for the immediate consideration of the conference report and the Senate amendment reported from the conference in complete disagreement on a bill (H.R. 8410) to increase the public-debt limit (the conference report had not been printed in the Record and had not been available as provided in Rule XXVIII clause 2(b)). [*House Rules and Manual* § 912 (1979).]

Speaker Carl Albert, of Oklahoma, answered a parliamentary inquiry on the consideration of the conference report and Senate amendment in disagreement:[1]

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, my parliamentary inquiry is this: that if an objection is heard to the request made by the gentleman from Arkansas, is it in order for the gentleman from Arkansas, the distinguished chairman of the Committee on Ways and Means, to move to suspend the rules to bring this to the floor of the House?

THE SPEAKER: The Chair will state that the Chair has the authority to recognize the gentleman for such a motion.

MR. STEIGER of Wisconsin: Mr. Speaker, further reserving the right to object, may I ask the Chair's indulgence in a question relating to rule XXVIII, clause 2(b), as to whether we have waived that part of the rule XXVIII governing conference reports, which says: Nor shall it be in order to consider any such amendment . . . unless copies of the report and accompanying statement together with the text of the amendment are then available on the floor.

THE SPEAKER: The Chair will state that copies of the Senate amendment and conference report are available, but that suspension of the rules will suspend all rules.

MR. STEIGER of Wisconsin: Mr. Speaker, further reserving the right to object, is it possible for Members of the House to have copies available?

MR. MILLS of Arkansas: Mr. Speaker, if the gentleman from Wisconsin will yield, we have copies of the proposed amendment, and there are copies of the Senate-passed bill that are available to every Member of the House.

MR. STEIGER of Wisconsin: Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER: Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Parliamentarian's Note: Prior to the addition of clause 2(b), Rule XXVIII, effective at the end of the 92d Congress (H. Res. 1153, Oct. 13, 1972), conference reports in total

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1. 119 CONG. REC. 22384, 93d Cong. 1st Sess.

disagreement could be called up immediately.

§ 29.24 Where the consideration of a conference report is by unanimous consent made in order on the same day presented, the report is called up as privileged.

On Sept. 12, 1962, Mr. Carl Albert, of Oklahoma, asked unanimous consent that consideration of the military construction appropriation bill be in order that afternoon (notwithstanding the fact that the report had not been printed in the Record). The House agreed to the request.(2)

Later on the same day, Mr. Harry R. Sheppard, of California, called up as privileged the conference report so provided for.(3)

§ 29.25 The consideration of a conference report may, at the Speaker's discretion, take precedence over the calling of the Consent Calendar.

On Nov. 30, 1945,(4) Speaker Sam Rayburn, of Texas, indicated in response to a parliamentary inquiry the precedence of a conference report over Consent Calendar business:

Mr. [Clarence] Cannon of Missouri: Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a conference report and statement on the so-called rescission bill.

The Speaker: Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. Cannon of Missouri: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Cannon of Missouri: Mr. Speaker, may I ask if this conference report on the rescission bill can be made the first order of business on Monday next?

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, if the gentleman will yield, I have previously announced that if the conference report on the so-called rescission bill is not acted on today, it will be the first order of business on Monday after the call of bills on the Consent Calendar.

Mr. Cannon of Missouri: Mr. Speaker, may I ask the majority leader if it will be possible to make this the first order of business on Monday?

Mr. McCormack: Mr. Speaker, I ask unanimous consent that the conference report on the rescission bill may precede the call of the Consent Calendar on Monday.

The Speaker: It is not necessary to obtain unanimous consent for that.

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(2) 108 Cong. Rec. 19258, 87th Cong. 2d Sess.

(3) *Id.* at p. 19278.

(4) 91 Cong. Rec. 11279, 79th Cong. 1st Sess.

The Chair can recognize the gentleman to call up the conference report before the call of the Consent Calendar and will do so.

§ 29.26 The consideration of a conference report is a highly privileged matter and may interrupt the consideration of a bill in the House, even though the previous question has been ordered thereupon.

On May 3, 1961, the Committee of the Whole rose and reported back to the House a bill (H.R. 6441, amending the Federal Water Pollution Control Act) pursuant to a special order (H. Res. 274) providing that at the conclusion of the consideration of the bill for amendment, the Committee rise and report the bill to the House, and the previous question be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. Speaker Sam Rayburn, of Texas, stated that under the rule the previous question was ordered.

A message was then received from the Senate indicating that the Senate had agreed to a conference report (on H.R. 3935, Fair Labor Standards Act Amendments). The Speaker recognized Mr. Adam C. Powell, of New York, to call up as a privileged matter the conference report on H.R. 3935 before putting the question on passage of H.R. 6441.(5)

§ 29.27 While the call of the Private Calendar is, under Rule XXIV clause 6, mandatory on the first Tuesday of the month, the Speaker may recognize for privileged business, a conference report, before directing the Clerk to begin the Private Calendar call.

On Aug. 3, 1965,(6) the first regular order of business was the calling of the Private Calendar, under Rule XXIV clause 6, since it was the first Tuesday of the month. After the approval of the Journal and presentation of routine requests, Speaker John W. McCormack, of Massachusetts, first recognized the Chairman of the Committee on the Judiciary, Emanuel Celler, of New York, to call up a conference report on S. 1564, a voting rights bill, before directing the Clerk to call the Private Calendar.

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5. 107 Cong. Rec. 7172, 87th Cong. 1st Sess. See also 5 Hinds' Precedents §§ 6449, 6450, 6454.
6. 111 Cong. Rec. 19187–91, 89th Cong. 1st Sess.

§ 29.28 The consideration of amendments in disagreement following adoption of a conference report may be interrupted by a question of constitutional privilege involving the impeachment of a federal civil officer, where no Member has the floor when the question of privilege is raised.

On Jan. 17, 1933, the House had agreed to a conference report and had not yet taken action on an amendment reported in disagreement by the conferees. Speaker John N. Garner, of Texas, ruled that a highly privileged constitutional question on impeachment took precedence over the further consideration of the amendment in disagreement:[7]

The Speaker: The conference report has been agreed to, but the amendment in disagreement has not been acted upon. It is the understanding of the Chair that a question of constitutional privilege may intervene between the agreement to the conference report and consideration of an amendment in disagreement. There is a hiatus there when the conference report has been agreed to and the House may go on, indefinitely, without considering the amendments in disagreement.

Mr. [Carl R.] Chindblom [of Illinois]: May I suggest to the Chair that the amendment in question is included in the conference report to the extent that the conferees report to the House that they have been unable to agree or have not agreed upon the amendment. Of course, it comes up as a part of the conference report. If it is not a part of the conference report, I respectfully submit to the Chair it has no privilege whatever and may not be called up at all except under a special rule, or until reached on the calendar.

The Speaker: The Chair is inclined to think that the philosophy of the rule would be that the conference report having been disposed of, the other question with respect to completing the consideration of the report may be delayed a day or two days if the House is disposed to do so and, in the meantime, a question of constitutional privilege can intervene.

Mr. Chindblom: May I add the further suggestion to the Chair that that might well be so if the gentleman in charge of the conference report waived his right?

Mr. [Joseph W.] Byrns [of Tennessee]: Of course I do not do that.

The Speaker: Let the Chair call the attention of the gentleman from Illinois to the rule with respect to questions of privilege:

> Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of Members individually, in their Representative capacity only, and shall have precedence of all other questions, except motions to adjourn.

It seems to the Chair this language is clear and that a question of constitutional privilege is undoubtedly in order at any time and only a motion to adjourn could interfere with it.

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[7] 76 Cong. Rec. 1953, 1954. 72d Cong. 2d Sess.

Senate Bills Similar to House Bills on House Calendar

§ 29.29 Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, are privileged for consideration and may be disposed of as the House may determine on motion directed to be made by such committee of jurisdiction.

On Jan. 1, 1951, a Senate bill similar to a House bill on the House Calendar was called up as a privileged matter:(8)

MR. [LINDLEY] BECKWORTH [of Texas]: Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce, I call up from the Speaker's table the bill (S. 3295) to amend the Railway Labor Act and to authorize agreements providing for union membership and agreements for deductions from the wages of carriers' employees for certain purposes and under certain conditions, a bill substantially the same (H.R. 7789) being on the House Calendar.

The Clerk read the title of the Senate bill.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I raise the question of consideration.

THE SPEAKER:(9) The gentleman from Virginia raises the question of consideration.

The question is, Will the House consider the bill?

The question was taken; and the Speaker announced the ayes appeared to have it.

Senate Amendments Not Requiring Consideration in Committee of the Whole

§ 29.30 House bills with Senate amendments which do not require consideration in Committee of the Whole may be at once disposed of as the House may determine and are privileged matters on the Speaker's table.

On Feb. 1, 1937, Speaker William B. Bankhead, of Alabama, responded to a parliamentary inquiry on the privileged status of a House bill with Senate amendments not requiring consideration in Committee of the Whole:(10)

MR. [JOHN J.] O'CONNOR of New York: Mr. Speaker, I call up House Joint Resolution 81, to create a Joint Congressional Committee on Government Organization, with a Senate amendment, for immediate consideration as a privileged resolution.

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(8) 96 CONG. REC. 17046, 81st Cong. 2d Sess.

(9) Sam Rayburn (Tex.).

(10) 81 CONG. REC. 644, 645, 75th Cong. 1st Sess.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

> Page 1, line 7, strike out "seven" and insert "nine."

Mr. O'Connor of New York: Mr. Speaker, I move the previous question on the Senate amendment.

Mr. [Bertrand H.] Snell [of New York]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Snell: I understood the gentleman called this up as a privileged matter. On what ground is this a privileged matter?

The Speaker: In reply to the inquiry of the gentleman from New York [Mr. Snell], under paragraph 2 of rule XXIV of the House Manual it is stated:

> Business on the Speaker's table shall be disposed of as follows:
>
> Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner and with the same right of correction as public bills presented by Members.

Here is the pertinent part in answer to the gentleman's inquiry:

> But House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills.

Mr. Snell: I appreciate that, and I have no objection to the consideration of this matter, but I wondered if it was a matter that could be taken up without being referred back to the committee for consideration.

The Speaker: Under the rule which the Chair has just read, the Chair is clearly of the opinion that it may be brought up in this manner.

Parliamentarian's Note: The same principle applies to Senate amendments to House amendments to Senate bills which do not require consideration in Committee of the Whole,(11) but where the Senate or House bill was originally on the Union Calendar, the Senate amendment thereto will ordinarily require consideration in Committee of the Whole.

Senate Amendments After Stage of Disagreement Reached

§ 29.31 After the stage of disagreement has been reached, the consideration of Senate amendments to a House bill is privileged.

On May 22, 1936, Mr. James M. Mead, of New York, called up a conference report on H.R. 9496, relating to payment of veterans' benefits. The conference report was

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11. See 106 Cong. Rec. 18357, 18358, 86th Cong. 2d Sess., Aug. 30, 1960.

ruled out on a point of order (that the conferees had improperly agreed to a Senate amendment containing an appropriation on a legislative bill). Speaker Joseph W. Byrns, of Tennessee, ruled that the Senate amendments were before the House and were privileged for consideration:[12]

The Speaker: The conference report was called up by the gentleman from New York [Mr. Mead]. The conference report has been held to be out of order, which leaves the Senate amendments before the House for consideration. The House must take some action on them.

Mr. [Carl E.] Mapes [of Michigan]: How do the amendments get before the House for consideration?

The Speaker: They are called up by the gentleman from New York [Mr. Mead].

Mr. Mapes: No attempt has been made by the gentleman from New York [Mr. Mead], as I understand, to call them up.

The Speaker: The Chair, in answer to the gentleman from Michigan, reads from section 3257 of Cannon's Precedents:

> When a conference report is ruled out of order the bill and amendments are again before the House as when first presented, and motions relating to amendments and conference are again in order.

The Chair thinks that completely answers the gentleman from Michigan.

Mr. Mapes: That seems to cover the matter.

Mr. [Frederick R.] Lehlbach [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Lehlbach: Are amendments put on a House bill by the Senate privileged?

The Speaker: After the stage of disagreement has been reached they are. For this reason it is necessary that the House take some action upon the amendments at this time.

Parliamentarian's Note: The stage of disagreement between the two Houses is reached when one informs the other of disagreement. If the House concurs in a Senate amendment to a House bill, with an amendment, insists on the amendment and requests a conference, and the Senate then concurs in the House amendment with a further amendment, the matter is subsequently privileged for consideration in the House since the House has communicated its insistence and request for a conference to the Senate [see *House Rules and Manual* § 828a (1979)].

Senate Request for Return of Bill

§ 29.32 A request of the Senate for the return of a bill is treated as privileged in the House.

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[12] 80 Cong. Rec. 7792, 74th Cong. 2d Sess.

On Aug. 18, 1958, Speaker Sam Rayburn, of Texas, ruled that a certain request of the Senate was privileged for consideration in the House:[13]

> The Speaker laid before the House the following request from the Senate:
>
> *Ordered*, That the House of Representatives be requested to return to the Senate the bill (S. 4071) entitled "An act to provide more effective price, production adjustment, and marketing programs for various agricultural commodities," asking a conference with the House thereon, and appointing conferees.
>
> Attest:
>
> Felton M. Johnston.
> *Secretary*.
>
> Mr. H. Carl Andersen [of Minnesota]: Mr. Speaker, a parliamentary inquiry.
>
> The Speaker: The gentleman will state it.
>
> Mr. H. Carl Andersen: Mr. Speaker, is this request subject to objection?
>
> The Speaker: It is not. It is a privileged matter.
>
> The question is on agreeing to the request of the Senate.
>
> The request was agreed to.
>
> A motion to reconsider was laid on the table.
>
> The Speaker: The Clerk will notify the Senate of the action of the House.

House Request for Return of Bill

§ 29.33 A House resolution requesting the Senate to return a bill to the House, no error or impropriety being involved, has not been treated as privileged for consideration in the House.

On Feb. 14, 1939, Mr. Jesse P. Wolcott, of Michigan, attempted to present a "privileged resolution," requesting the Senate to return a bill to the House, and asked for the immediate consideration of the resolution. Speaker William B. Bankhead, of Alabama, ruled in response to a point of order that the resolution was not privileged for consideration:[14]

> Mr. [Sam] Rayburn [of Texas]: Mr. Speaker, I make the point of order that the resolution is not privileged. I think it is clear that there is an irregularity, either in the preamble or in any part of this resolution, that would vitiate the action of the House. I think, therefore, it is not a privileged resolution, and I make the point of order it is not a privileged resolution. . . .
>
> The Speaker: The Chair is ready to rule.
>
> The gentleman from Michigan offers a resolution providing that the Senate be requested to return the bill H.R. 3790 to the House of Representatives for such further consideration as the House of Representatives may deem proper.
>
> A reading of the subsequent allegations contained in the preamble seems

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[13] 104 Cong. Rec. 18288, 85th Cong. 2d Sess.

[14] 84 Cong. Rec. 1365–67, 76th Cong. 1st Sess.

to support the idea that the gravamen of the objection made by the gentleman from Michigan is that in the course of the performance of its duty the Joint Committee on Internal Revenue Taxation failed to offer to or concealed from certain Members of the House Committee on Ways and Means the study compiled by its staff with reference to the constitutionality of the statute seeking to tax the salaries of State officials. The gentleman from Michigan in his argument rather tacitly admitted he had grave doubts as to whether or not under the usual rules and precedents of the House the facts stated justified the submission of the resolution as involving privileges of the House.

The Chair is very clearly of the opinion that one or two precedents, which are found in Hinds' Precedents, volume 4, sections 3477 and 3478, lay down sufficient guidance for the Chair in determining this question.

> On August 6, 1856, an order directing the Clerk to request the Senate to return the Mississippi land bill in order that an error in engrossment might be corrected, was offered by unanimous consent, and does not seem to have been contemplated in the light of a privileged proposition.

In the other precedent, Mr. Speaker Crisp, in interpreting the question of whether or not matter of this sort constituted a privileged proposition, said:

> If the gentleman from Indiana would modify his resolution so as to allege that this bill was reported unfavorably from the Committee of the Whole, and was considered by the House under the idea that it had been favorably reported, the Chair thinks the resolution would be privileged. But a simple resolution to recall a bill can hardly be considered privileged, because in that case such a resolution might be presented with regard to any bill that is passed. To make the resolution privileged, it should show that the House has acted under some misunderstanding of the report of the Committee—

The Chair interpolates there that he assumes that was a report of a Committee of the Whole—

> or something of that kind.

The fact suggested that all Members of the House were deprived of the benefits of the legal opinion formulated by the staff of the Joint Committee on Internal Revenue Taxation does not justify the Chair in assuming that, even if they had had such information, it would have changed the vote of the House. The Chair recollects that this particular problem of the constitutionality of this bill from the Committee on Ways and Means was very ably debated on the floor of the House.

Under the rules and under the precedents the Chair has suggested, although the Chair realizes there are cases in which it might be proper to offer a resolution to recall a bill for some clerical misprision or for some patent misstatement of the Record, the Chair is of the opinion that this matter does not present a privileged resolution and, therefore, sustains the point of order made by the gentleman from Texas.

Postponing Further Consideration of Privileged Matter

§ 29.34 Under Rule XI [clause 4(b) in the 1979 House Rules and Manual], the calling up of a resolution reported from the Committee on Rules is a matter of high privilege not to be delayed by any intervening motion except one motion to adjourn, and when consideration has begun and the resolution is under debate, the House can postpone further consideration and proceed to other business only by unanimous consent.

On Oct. 29, 1969, Mr. John A. Young, of Texas, called up, by direction of the Committee on Rules a special order providing for the consideration of a bill. After consideration had begun and the resolution was under debate, Mr. Young asked unanimous consent "that further consideration of this resolution be postponed until tomorrow." The House agreed to the request.(15)

Parliamentarian's Note: A privileged resolution called up in the House may be withdrawn from consideration before action thereon, and if the resolution is later reoffered, debate under the hour rule begins anew. But if the House desires to use part of the hour's debate on one day and resume consideration on the next, it may by unanimous consent postpone further consideration or, if there is no further business or special orders to follow, it may simply adjourn so that the resolution would become unfinished business on the following day. Privileged resolutions other than privileged reports from the Committee on Rules are subject to the motion to postpone.

Withdrawal of Privileged Resolution

§ 29.35 A Member calling up a privileged resolution in the House may withdraw it at any time before action thereon, and unanimous consent is not required for such withdrawal.

On Feb. 29, 1968, Mr. Samuel N. Friedel, of Maryland, called up by direction of the Committee on House Administration, a privileged resolution (H. Res. 1127) authorizing the expenditure, from the contingent fund, of certain expenses of the Committee on Un-American Activities. Mr. William F. Ryan, of New York, made a point of order against the consideration of the resolution on the grounds that a quorum was not present in the Committee on House Administration when the resolution was ordered reported. Mr. Friedel thereupon withdrew the resolution from consideration.(16)

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(15) 115 Cong. Rec. 32076–83, 91st Cong. 1st Sess.

Modification of Privileged Resolutions

§ 29.36 After a motion or resolution is formally pending, all modifications thereof must be approved by the House. An exception to this general principle attaches to a resolution which is offered as a question of privilege.

With respect to most resolutions, the right of withdrawal and resubmission in a modified form does not exist; the resolution, although a privileged report, may not be modified except by direction of the reporting committee by way of amendment, or otherwise with the concurrence of the House. (See Ch. 23, Motions, § 1, infra.)

Special considerations attach to a resolution which raises a question of privilege, however. Such a resolution may be withdrawn at will prior to action thereon, and may be modified and resubmitted if still raising a question of privilege. As a corollary to this principle, a precedent (5 Hinds' Precedents § 5358) indicates that the offeror of such resolution may similarly accept certain "friendly amendments" or modifications of his resolution without the concurrence of the House.

§ 30. Privileged Motions as to the Order of Business

Several motions directly relating to the order of business are given precedence under the rules of the House. An example is the motion that the House resolve itself into the Committee of the Whole House on the state of the Union to consider general appropriation bills, a motion privileged under Rule XVI clause 9.(17) The motion only applies to general appropriation bills, and appropriation bills which do not qualify are usually made in order for consideration by unanimous consent.(18)

Prior to the amendment to Rule XI clause 4(a) [*House Rules and Manual* § 726 (1979)] effective Jan. 3, 1975, (H. Res. 988, 93d Cong. 2d Sess., 120 Cong. Rec. 34469, 34470), to eliminate the authority

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16. 114 Cong. Rec. 4449, 90th Cong. 2d Sess.

17. *House Rules and Manual* § 802 (1979).

18. See, for example, § 29.9, supra.

of the Committee on Ways and Means to report as privileged bills raising revenue, a motion to resolve into the Committee of the Whole to consider a revenue bill was of equal privilege to the similar motion to consider a general appropriation bill (4 Hinds' Precedents §§ 3075, 3076). However, the privileged nature of the motion under Rule XVI clause 9 with respect to revenue bills was derived from and was dependent upon the former privilege conferred upon the Committee on Ways and Means under Rule XI clause 4(a) to report revenue measures to the House at any time (4 Hinds' Precedents § 3076).

At present, other than as applied to general appropriation bills, the motion to resolve into the Committee of the Whole House on the state of the Union has no particular precedence under the rules. Under the prescribed order of business in Rule XXIV clause 1,(19) the motion to resolve into Committee of the Whole is in order, if the House follows that strict order of business, after the morning hour for consideration of bills reported by committees and before orders of the day.(20)

But an order of business resolution reported from the Committee on Rules, making in order the motion to resolve into the Committee of the Whole to consider a particular bill, gives precedence to the motion (equal to the precedence of the motion to resolve into Committee of the Whole for consideration of an appropriation bill).(1) Where the order of business resolution discharges a committee from further consideration of a bill, the resolution may provide that upon the adoption of the resolution the House shall immediately resolve itself into the Committee of the Whole for the consideration of the bill. In that situation, no motion is required and the Speaker directs the House to resolve into the Committee.(2)

The motion to resolve into the Committee of the Whole may also be made privileged by the provisions of a statute. Where a statute gives privilege to a motion to consider a certain type of resolution (disapproving proposed executive action) and the resolution must be considered in Committee of the Whole, the motion to resolve into the Committee is considered privileged.(3)

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(19) *House Rules and Manual* § 878 (1979).

(20) The House considers most of its business under other provisions of the rules than Rule XXIV clause 1. Thus under current practice the morning hour call of committees and the motion to go into Committee of the Whole under that clause are not used.

(1) See § 30.3, infra.

(2) See § 30.5, infra.

If a motion to discharge under Rule XXVII clause 4,(4) called up as privileged on eligible days, is agreed to, the motion to proceed to the immediate consideration of the discharged bill or resolution is privileged. If the discharged matter is properly considered in the House, the privileged and nondebatable motion that the House proceed to the consideration thereof is in order. If the discharged matter must be considered in the Committee of the Whole (under Rule XXIII clause 3),(5) the privileged and nondebatable motion that the House resolve itself into the Committee of the Whole for the consideration of the matter is in order. If the motion prevails to discharge the Committee on Rules from the further consideration of a resolution (providing a special rule or special order), no motion for consideration is required, as the House immediately votes on the adoption of the resolution.(6)

Motions to discharge committees from the consideration of particular proposals may be made privileged under the rules or pursuant to statute. Statutes which allow a resolution disapproving an executive action to be called up as privileged also contain provisions allowing a privileged motion to discharge the committee after a certain period of time.(7) That specialized motion to discharge is analogous to the motion to discharge a committee from the further consideration of a resolution of inquiry, which motion is, under the precedents, privileged where the committee has failed to report the resolution within seven legislative days.(8)

Other privileged motions relating to the order of business are the motion to suspend the rules, which is in order on certain days and may be used to create or change an order of business as well as to

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3. See §§ 30.8–30.10, infra. See *House Rules and Manual* § 1013 (1979) for a compilation of such statutory provisions.
4. *House Rules and Manual* § 908 (1979).
5. *House Rules and Manual* § 865 (1979).
6. For motions to discharge and subsequent motions to consider, see §§ 30.11–30.14, infra.
7. See § 29.11, supra.
8. See § 29.15, supra.

adopt bills and resolutions, and the motion to dispense with Calendar Wednesday business (although Calendar Wednesday is usually dispensed with by unanimous consent prior to Wednesday).[9]

The question of consideration,[10] a method whereby the House may refuse to consider a proposition, privileged or otherwise, is akin to a motion. The question may be raised by any Member but must be raised before debate begins on the proposition brought before the House. By a negative vote on the question, the House may change, temporarily, the order of business.

The question of consideration may not be raised, however, against a class of business (such as all District of Columbia business on District Day), against a motion to resolve into the Committee of the Whole or another motion relating to the order of business, against a report from the Committee on Rules (since under Rule XI clause 23 [clause 4(b) in the 1979 *House Rules and Manual*] intervening motions are not in order), and against a motion to discharge.[11]

The question of consideration may not be raised against the motion to resolve into the Committee of the Whole because the House, by voting on that motion determines the question of consideration. Of course, an automatic question of consideration is raised when the Committee on Rules calls up a report on the same day reported; the Chair puts sua sponte the question of consideration, which requires a two-thirds affirmative vote.[12]

Two other privileged motions which, if decided in the affirmative, prevent the consideration of business are the motion to table (final adverse disposition) and the motion to postpone (to a day certain or indefinitely).[13]

Motions relating to the order of business are generally not debatable, as provided by Rule XXV, except the motions to postpone specifically made debatable in Rule XVI clause 4.

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[9] See § 9, supra, for the motion to suspend the rules and § 30.15, infra, for the motion to dispense with Calendar Wednesday business.

[10] See Rule XVI clause 3, *House Rules and Manual* § 778 (1979).

[11] See § 30.16, infra, for the question of consideration.

[12] Consideration of reports from the Committee on Rules is discussed in § 18, supra.

[13] Motions, their use and precedence are analyzed in Ch. 23, infra.

Cross References

As to the motion to discharge and its precedence, see Ch. 18, supra.

As to the motion to resolve into the Committee of the Whole generally, see Ch. 19, supra.

As to motions, their use and precedence generally, see Ch. 23, infra.

As to the motion to resolve into the Committee of the Whole to consider general appropriation bills, see Ch. 25, infra.

As to the question of consideration generally, see Ch. 29, infra.

As to motions to suspend the rules, see § 10, supra.

As to motions to consider bills under special rules, see § 20, supra.

Motion to Resolve into Committee of the Whole

§ 30.1 When a motion has been made that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of a bill, a motion that the Committee of the Whole be discharged and that the bill be laid on the table is not preferential and not in order.

On Apr. 2, 1938, Mr. John J. Cochran, of Missouri, moved that the House resolve itself into the Committee of the Whole for the further consideration of a bill (S. 3331) dealing with governmental reorganization. Mr. John J. O'Connor, of New York, sought recognition to offer a motion:

MR. O'CONNOR of New York: Mr. Speaker——

THE SPEAKER:(14) For what purpose does the gentleman from New York rise?

MR. O'CONNOR of New York: To offer a preferential motion.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

> Mr. O'Connor of New York moves that the Committee of the Whole House on the state of the Union be discharged from further consideration of the bill S. 3331, and that said bill be laid on the table.

Mr. Lindsay C. Warren, of North Carolina, made a point of order against the motion and Mr. O'Connor argued that the motion was preferential under Rule XVI clause 4. Speaker Bankhead sustained the point of order:

THE SPEAKER: The Chair is ready to rule.

The gentleman from New York [Mr. O'Connor] offers what he states is a preferential motion that the Committee of the Whole House on the state of the Union be discharged from consideration of the bill S. 3331, and said bill be laid on the table.

The Chair is of the opinion that under the rules of the House a motion of this sort is not a preferential motion, and therefore not in order. The matter now

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14. William B. Bankhead (Ala.).

pending is a simple motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill, and under the precedents a motion to discharge the Committee of the Whole House on the state of the Union from the further consideration of a bill is not a privileged motion.

The Chair sustains the point of order.(15)

Parliamentarian's Note: Mr. O'Connor's motion was not privileged as a motion to table under Rule XVI clause 4 since the bill was not then under debate. The proper point at which to raise points of order against the consideration of a Union Calendar bill, such as defects in reporting the bill, is pending the vote on the motion that the House resolve itself into the Committee of the Whole for the consideration of the bill.(16)

§ 30.2 The motion to lay on the table is not in order when there is pending a privileged motion that the House resolve itself into the Committee of the Whole for the consideration of a resolution disapproving a reorganization plan.

On June 8, 1961, Mr. H. R. Gross, of Iowa, was recognized by Speaker pro tempore Oren Harris, of Arkansas, to make the privileged motion that the House resolve itself into the Committee of the Whole for the consideration of a resolution, reported from the Committee on Government Operations, disapproving a reorganization plan submitted under the Reorganization Act of 1949. The Speaker pro tempore stated, in response to a parliamentary inquiry by Mr. Byron G. Rogers, of Colorado, that a motion to table would not be in order.(17)

Parliamentarian's Note: The motion to table is not applicable to any motion to resolve into the Committee of the Whole (see 6 Cannon's Precedents § 726).

Effect of Special Rule on Moving Consideration of Bill

§ 30.3 The Speaker held that the effect of a special rule making in order a motion to resolve into the Committee of the Whole for the consideration of a bill was to give to the bill the privileged status for consideration that a general appropriation bill has (since

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15. 83 Cong. Rec. 4621, 75th Cong. 3d Sess.

16. See 72 Cong. Rec. 10593–96, 71st Cong. 2d Sess., June 12, 1930; and 114 Cong. Rec. 30751, 90th Cong. 2d Sess., Oct. 11, 1968.

17. 107 Cong. Rec. 9777, 87th Cong. 1st Sess.

the motion to resolve into the Committee of the Whole for the consideration of an appropriation bill is privileged under Rule XVI clause 9).

On June 28, 1930,(18) Mr. Fred S. Purnell, of Indiana, called up by direction of the Committee on Rules House Resolution 264, providing that upon the adoption of the resolution it be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a particular bill, and providing for that bill's consideration. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution and characterized the effect of such a resolution from the Committee on Rules:

THE SPEAKER: The Chair is prepared to rule. It is not necessary to pass upon the question of whether the original rule for the consideration of this bill is still alive or not. The Chair, when the matter was originally submitted to him, informally expressed a grave doubt as to whether it would be considered alive. But this rule is an entirely different rule. It appears now for the first time for consideration. The Chair is aware that this bill has had a rather stormy passage. It has been twice rereferred to the committee, but as the bill now appears, so far as the Chair is advised, it is properly on the calendar as of June 24, 1930, and this special rule is properly reported to consider that bill. The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:

> At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.

Now all that this special rules does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

§ 30.4 The adoption of a resolution making in order the motion that the House resolve itself into the Committee of the Whole for the consideration of a bill does not necessarily make the bill the unfinished business, and the bill can only be called up by a Member designated by the committee to do so.

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18. 72 CONG. REC. 11994, 11995, 71st Cong. 2d Sess.

On July 19, 1939,[19] the House had adopted a special order providing that upon the adoption thereof "it shall be in order to move that the House resolve itself into the Committee of the Whole" for the consideration of a bill. Speaker William B. Bankhead, of Alabama, answered an inquiry on the effect of the resolution:

Mr. [Sam] Rayburn [of Texas]: Mr. Speaker, I may state to the House that it has been decided we will not proceed further with the bill under consideration than the adoption of the rule this afternoon.

Mr. [Kent E.] Keller [of Illinois]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Keller: Mr. Speaker, what will be the parliamentary situation tomorrow?

The Speaker: The Chair is not in position to answer the parliamentary inquiry of the gentleman from Illinois. The Chair cannot anticipate what measure may be called up tomorrow.

Mr. [Claude V.] Parsons [of Illinois]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Parsons: Mr. Speaker, the House having adopted the rule, is not this bill the unfinished business of the House on tomorrow?

The Speaker: Not necessarily. The rule adopted by the House makes the bill in order for consideration, but it is not necessarily the unfinished business. It can only come up, after the adoption of the rule, by being called up by the gentleman in charge of the bill.

§ 30.5 Where the House adopts a resolution providing for the "immediate consideration" in Committee of the Whole of a bill not reported from committee, the Speaker directs that the House resolve itself into Committee of the Whole without recognizing for a motion to that effect.

On June 24, 1965, the House adopted House Resolution 433, providing that upon the adoption of the resolution the House "shall immediately resolve itself into the Committee of the Whole House on the state of the Union for the consideration" of a bill not yet reported from committee. The House proceeded as follows upon the adoption of the resolution (Speaker John W. McCormack, of Massachusetts, presiding):[20]

Mr. [Ray J.] Madden [of Indiana]: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

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[19] 84 Cong. Rec. 9541, 76th Cong. 1st Sess.

[20] 111 Cong. Rec. 14705, 14706, 89th Cong. 1st Sess.

The Speaker: The question is on the resolution.

The resolution was agreed to.

The Speaker: Pursuant to House Resolution 433, the House resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 541).

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 541), to extend the Area Redevelopment Act for a period of 2 months, with Mr. Boland in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

Mr. [Wright] Patman [of Texas]: Mr. Chairman, I yield myself 5 minutes.

§ 30.6 Where the House adopts a special order providing for the immediate consideration of another resolution in the House, the Speaker directs the Clerk to report the resolution without its being called up by the Member in charge.

On Jan. 31, 1973, the House adopted the following resolution, reported from the Committee on Rules, providing for the consideration in the House of another resolution reported from the Committee on Rules (creating a select committee to study the operations of Rule X and Rule XI, relating to committees of the House and their procedures):[1]

> *Resolved,* That immediately upon the adoption of this resolution the House shall proceed to the consideration of the resolution (H. Res. 132) to create a select committee to study the operation and implementation of rules X and XI of the Rules of the House of Representatives. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the previous question shall be considered as ordered on the resolution to its adoption or rejection.

Following the adoption of the special order, the House proceeded as follows to consider the resolution creating the select committee:[2]

The Speaker:[3] The Clerk will report House Resolution 132.

The Clerk read the resolution as follows:

> H. Res. 132
>
> *Resolved,* That there is hereby created a select committee to be composed of ten Members of the House of Representatives to be appointed by the Speaker; five from the majority party and five from the

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1. 119 Cong. Rec. 2804, 93d Cong. 1st Sess.
2. *Id.* at p. 2812.
3. Carl Albert (Okla.).

minority party, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the manner in which the original appointment was made.

The select committee is authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of rules X and XI of the Rules of the House of Representatives, including committee structure of the House, the number and optimum size of committees, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities.

The select committee is authorized and directed to report to the House by bill, resolution, or otherwise, with respect to any matters covered by this resolution.

For the purposes of this resolution, the select committee or any subcommittee thereof is authorized to sit and act during sessions of the House and during the present Congress at such times and places whether or not the House has recessed or adjourned. The majority of the members of the committee shall constitute a quorum for the transaction of business, except that two or more shall constitute a quorum for the purpose of taking evidence.

To assist the select committee in the conduct of its study under this resolution, the committee may employ investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants; and all expenses of the select committee, not to exceed $1,500,000 to be available one-half to the majority and one-half to the minority, shall be paid from the contingent fund of the House on vouchers signed by the chairman of the select committee and approved by the Speaker.

The Speaker: The gentleman from Missouri (Mr. Bolling) will be recognized for 30 minutes, and the gentleman from Nebraska (Mr. Martin) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Missouri (Mr. Bolling).

§ 30.7 Notwithstanding the adoption by the House of a resolution making in order the consideration of conference reports on the day reported (on that day), the Speaker indicated, in response to a parliamentary inquiry, that the legislative history which prompted the Committee on Rules to meet and report that resolution restricted his authority to recognize Members to call up three designated reports.

On Oct. 18, 1972,(4) Mr. William M. Colmer, of Mississippi, called up by direction of the Committee on Rules House Resolution 1168, providing for the consideration, on a certain day, of any reports from the Committee on Rules and any conference reports reported on that day. Mr. Colmer explained that the resolution was a product of an informal leadership agreement of the preceding day.

Speaker Carl Albert, of Oklahoma, then answered parliamentary

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4. 118 Cong. Rec. 37063, 37064, 92d Cong. 2d Sess.

inquiries on his exercise of the power of recognition under the resolution:

Mr. [Peter W.] Rodino [Jr., of New Jersey]: Mr. Speaker, under the resolution just agreed to, would it be in order for the House to consider the conference report when it is ready on S. 2087, Omnibus Crime Control and Safe Streets Act of 1968, benefits to survivors of police officers killed in line of duty, which was agreed upon and which was filed yesterday?

The Speaker: The Chair must answer the gentleman in accordance with the language which the Chair used when this matter was before the House on yesterday. At that time the Chair stated, and no specific reference was made to any bill because it had been informally mentioned to the Members who were seeking the rule, that this rule would not be used for any other bill except those dealing with three items. Under that interpretation it would be in order to bring those conference reports up on the day on which they were filed. As the Chair understands his own language and his own informal agreement, which was a part of the history, the Chair would very much like to recognize the gentleman, but the Chair feels constrained to hold that the legislative history restricts all action under House Resolution 1168 to three measures, the highway bill, the debt ceiling bill, and the continuing resolution.

Mr. Rodino: Mr. Speaker, a further parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Rodino: Mr. Speaker, referring again to the rule adopted, was not the language strictly stated, and this is the language that I heard stated, the language referred to in the course of debate notwithstanding legislative history of yesterday, to consider conference reports the same day reported, notwithstanding the provisions of clause 2, rule XXVIII?

The Speaker: The gentleman is referring to three conference reports which precipitated the action which brought into existence this resolution.

The Chair would like to recognize the gentleman, but the Chair feels that its own promise is at stake here.

The Chair will try to find some other method of recognizing the gentleman.

The Chair does not feel that in good faith or in good conscience it can recognize the gentleman under the circumstances. . . .

The Chair feels constrained to say—and the Chair hates to make a statement from the chair on issues like this—it was suggested these three bills which the Chair has mentioned be listed in the resolution. The Chair said that was not necessary; that was the understanding, and it would simply complicate the resolution by naming the three bills. That is what happened.

The Chair recognizes that had it not been for that understanding and legislative history, which is in the Record, this would have been eligible under the clear language of the resolution.

The Chair would gladly recognize the gentleman for a unanimous-consent request to bring it up now.

Motion to Consider Resolution Privileged by Statute

§ 30.8 A motion to consider a resolution, disapproving a plan formulated by the executive branch, may be made privileged by a statute so providing.

A motion that the House resolve itself into the Committee of the Whole to consider a resolution disapproving a reorganization plan is privileged (under the Legislative Reorganization Act of 1949).

On July 6, 1959, Speaker Sam Rayburn, of Texas, recognized for a privileged motion to consider a disapproval resolution:[5]

> MR. [DANTE B.] FASCELL [of Florida]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 295) to disapprove Reorganization Plan No. 1 of 1959.
>
> The motion was agreed to.
>
> Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 295, to disapprove Reorganization Plan No. 1 of 1959, with Mr. Udall in the chair.
>
> The Clerk read the title of the resolution.

Parliamentarian's Note: The Reorganization Act of 1949, 63 Stat. 203 (5 USC §§ 905–913), provided in section 205(a) that following the report of the committee on a resolution with respect to a reorganization plan, it would be in order at any time thereafter "to move to proceed to the consideration of such resolution."

The act also provided, in section 204, for a privileged motion to discharge the committee from further consideration of such a resolution not reported in 10 calendar days. In the event the motion to discharge were agreed to, the privileged motion for consideration in section 205 would apply.

§ 30.9 After a committee has reported a resolution disapproving a reorganization plan (privileged under the Reorganization Act of 1949), any Member may move that the House proceed to the consideration thereof.

On July 19, 1961, Mr. Dante B. Fascell, of Florida, moved that the House resolve itself into the Committee of the Whole for the consideration of House Resolution 328, disapproving a reorganization plan transmitted to Congress under the Reorganization Act of 1949 and reported by the Committee on Government Operations. Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry on recognition for the privileged motion:[6]

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[5] 105 CONG. REC. 12740, 86th Cong. 1st Sess.

Mr. [H. R.] Gross [of Iowa]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Gross: Mr. Speaker, under title 2, section 204 of the public law, paragraph (b) provides that such a motion may be made only by a person favoring the resolution. Is the gentleman from Florida in favor of the resolution, or does he disfavor the resolution?

The Speaker: Under the rules, the gentleman does not have to qualify in that respect on this particular motion.

Parliamentarian's Note: Section 204 (b) of the act (81 Stat. 203, 207) required a person favoring the resolution to make a motion to discharge. A Member did not have to qualify to make the motion for consideration under section 205(a) of the act.

§ 30.10 A subsequent motion that the House resolve itself into the Committee of the Whole for the consideration of a resolution disapproving a reorganization plan (privileged under the Reorganization Act of 1949) would not be precluded by deciding the instant motion in the negative.

On June 8, 1961, Mr. H. R. Gross, of Iowa, inquired of Speaker pro tempore Oren Harris, of Arkansas, whether it would be in order, as a privileged matter, to submit a motion that the House resolve itself into Committee of the Whole for the consideration of a resolution disapproving a reorganization plan, reported by the Committee on Government Operations. The Speaker pro tempore replied that the motion was privileged for consideration and could be made by any Member. The Speaker pro tempore then responded to a parliamentary inquiry regarding the effect of a negative vote on the motion:[7]

Mr. [Charles A.] Halleck [of Indiana]: Mr. Speaker, a further parliamentary inquiry.

The Speaker Pro Tempore: The gentleman will state it.

Mr. Halleck: If the pending motion is voted down, would it still be in order at a subsequent date to call up a motion rejecting plan No. 2 for another vote? I ask that because I am opposed to plan No. 2. The committee has reported adversely in respect to plan No. 2. I am going to vote against that plan and in support of the resolution of the committee. But under my responsibility as the minority leader and under my agreement with the majority leader, I do not see how I could vote today unless, under the situation as it exists, that vote today would be conclusive as to plan No. 2.

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[6] 107 Cong. Rec. 12905, 12906, 87th Cong. 1st Sess.

[7] 107 Cong. Rec. 9776, 87th Cong. 1st Sess.

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, will the gentleman yield?

MR. HALLECK: I yield.

MR. BOGGS: If we were to vote today, there is no Member of this body who would have been on notice that this plan was to have been called up and we would actually not be keeping the agreement with either side of the aisle.

MR. HALLECK: Mr. Speaker, I would like to get an answer to the parliamentary inquiry.

THE SPEAKER PRO TEMPORE: In the opinion of the Chair, under the Reorganization Act, it could be called up at a subsequent date.

MR. HALLECK: In other words, the action that would be taken today would not be final?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. HALLECK: In view of the fact that there was no notice to the membership of the House of Representatives on either side that this matter would come on for action today, if plan No. 2 is not voted on today it would subsequently be voted on?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

Motion to Discharge and Subsequent Motion to Consider

§ 30.11 The Speaker indicated in response to a parliamentary inquiry that on the second and fourth Mondays of the month, motions to discharge committees which have been on the Discharge Calendar seven legislative days are privileged and come up immediately after the reading of the Journal, and that a special order providing for the consideration of another matter on a discharge day would not affect the precedence of motions to discharge.

On Mar. 10, 1932, Speaker John N. Garner, of Texas, answered a parliamentary inquiry on the precedence of a motion to discharge on an eligible day, where there was pending a unanimous-consent request making a special order of business on such a day:(8)

MR. [JOHN J.] O'CONNOR [of New York]: Under the unanimous-consent request of the gentleman from Georgia, he states that if general debate is not concluded on Saturday, it would be continued on Monday. If that were so, would this unanimous-consent request take precedence over privileged matters; for instance, the matter of a motion to discharge committees?

MR. [CHARLES R.] CRISP [of Georgia]: I suggest this to the Speaker: The rule provides particularly, that after the approval of the Journal it shall be in order to call up such a motion.

THE SPEAKER: There is no discretion in the hands of the House and the Chair so far as that rule is concerned.

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8. 75 CONG. REC. 5689, 72d Cong. 1st Sess.

It is made for the purpose of forcing consideration of a measure when the motion to discharge the committee has 145 signatures.

MR. CRISP: As the author of the rule, I state to the Chair that that was the purpose and intention.

Parliamentarian's Note: Rule XXVII clause 4 provides for a motion to discharge any committee from a public bill or resolution and the Committee on Rules from certain kinds of resolutions. There are also special motions to discharge given privileged status: under Rule XXII clause 5, a motion is privileged to discharge a committee from consideration of a resolution of inquiry not reported within seven legislative days; under the provisions of some statutes, certain resolutions of disapproval (preventing the implementation of plans by the executive) may be brought up as privileged by a motion to discharge; and under a prior rule of the House, in effect in the 89th Congress, a motion could be made to discharge the Committee on Rules from the consideration of certain proposals.(9)

§ 30.12 Following agreement to a motion to discharge a standing committee from the consideration of a public bill or resolution, the motion to proceed to the immediate consideration of the legislation is privileged if made by a Member who signed the discharge petition, and is decided without debate.

On Aug. 10, 1970, Mrs. Martha W. Griffiths, of Michigan, moved to discharge the Committee on the Judiciary from the further consideration of a joint resolution proposing an amendment to the United States Constitution, under Rule XXVII clause 4.

Following agreement to the motion to discharge, Mrs. Griffiths made the privileged motion for the consideration of the joint resolution:(10)

MRS. GRIFFITHS: Mr. Speaker, pursuant to the provisions of clause 4, rule XXVII, I move that the House proceed to the immediate consideration of House Joint Resolution 264.

THE SPEAKER:(11) The question is on the motion offered by the gentlewoman from Michigan (Mrs. Griffiths).

The motion was agreed to.

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9. For discussion of the privilege of resolutions of inquiry and resolutions of disapproval under statutes, see § 29, supra. For discussion of the former 21-day discharge rule in relation to the Committee on Rules, see § 18, supra.

10. 116 CONG. REC. 28004, 91st Cong. 2d Sess.

11. John W. McCormack (Mass.).

The Speaker: The Clerk will report the joint resolution.

The Clerk read as follows:

H.J. Res. 264

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"Article —

"Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. Congress and the several States shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation.

"Sec. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States.

"Sec. 3. This amendment shall take effect one year after the date of ratification."

The Speaker: The gentlewoman from Michigan is recognized for 1 hour.

§ 30.13 Motions to discharge committees do not lose their privileged status by reason of the fact that they are not called up on the first eligible Monday.

On Dec. 18, 1937, Speaker William B. Bankhead, of Alabama, answered a parliamentary inquiry on the privilege of motions to discharge committees pending on the Discharge Calendar:[12]

Mr. [Samuel B.] Pettengill [of Indiana]: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state his parliamentary inquiry.

Mr. Pettengill: Directing the Chair's attention to the Ludlow petition which now may be called up on the second Monday of next month, if it fails to be called up on that day, would it retain its privileged status on a subsequent second or fourth Monday?

The Speaker: The status of the matter is that it is on the calendar of motions to discharge committees. If not called up on the first date on which it would be entitled to be called up, it remains on the calendar subject to further call on the second or fourth Mondays of a month.

§ 30.14 The regular order of business, such as the relative precedence of a motion to discharge on discharge days over unfinished business on which the previous question has been ordered, may be varied by unanimous consent.

On May 8, 1936,[13] Speaker Joseph W. Byrns, of Tennessee, answered a parliamentary inquiry as to the order of business (relative precedence of motions to discharge and unfinished business with the previous question ordered) and the power of the House to change such order by unanimous consent:

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[12] 82 Cong. Rec. 1847, 75th Cong. 2d Sess.

[13] 80 Cong. Rec. 7010, 74th Cong. 2d Sess.

Mr. [William B.] Bankhead [of Alabama]: Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

Mr. [Gerald J.] Boileau [of Wisconsin]: Mr. Speaker, reserving the right to object, and I shall not object, will the Speaker make the situation clear with reference to the legislative program for Monday?

As I understand it, it will be in order before we complete this bill to take up the question of the discharge of the Rules Committee from further consideration of the Frazier-Lemke bill. I would like to ask the Speaker if my understanding is correct, if consideration of the discharge petition would come up before the vote on this bill?

The Speaker: The Chair thinks it would unless there is a previous understanding. The matter of which shall take precedence can be fixed by consent.

Mr. Boileau: I appreciate that, Mr. Speaker. Many Members interested in the Frazier-Lemke bill are anxious to know just what the situation is going to be.

Mr. [Bertrand H.] Snell [of New York]: It would seem to me, if the Speaker will permit, that the vote on the pending bill would be the unfinished business before the House on Monday.

The Speaker: The Chair will state to the gentleman from Wisconsin that, by consent, an agreement can be made whereby the vote on the motion to recommit the pending bill, or a roll call on its passage, can be had first and then to take up the motion to discharge the committee.

Motion to Dispense With Calendar Wednesday Business

§ 30.15 The Speaker is constrained to recognize on Wednesdays any Member proposing a motion to dispense with further Calendar Wednesday business on that day and a two-thirds vote is required to adopt the motion.

On June 5, 1946,(14) the following discussion and ruling by Speaker Sam Rayburn, of Texas, took place in relation to the motion to dispense with Calendar Wednesday business, made on Calendar Wednesday:

Mr. [William M.] Whittington [of Mississippi]: That was my inquiry, Mr. Speaker.

Mr. Speaker, I therefore move that the House dispense with further proceedings under Calendar Wednesday.

Mr. [Joseph W.] Martin [Jr.] of Massachusetts: Mr. Speaker, a point of order. That can only be done by unanimous consent.

Mr. [Vito] Marcantonio [of New York]: Mr. Speaker, a point of order.

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14. 92 Cong. Rec. 6357, 79th Cong. 2d Sess.

The Speaker: The gentleman will state the point of order.

Mr. Marcantonio: Mr. Speaker, that motion is not in order. To dispense with Calendar Wednesday requires the unanimous consent of the House.

Mr. Whittington: Mr. Speaker, with your indulgence, may I say that I agree that to dispense with Calendar Wednesday entirely can only be done by unanimous consent, but when there has been a call, and the Committee on Banking and Currency has been called, I respectfully submit that dispensing with the remainder of the proceedings under Calendar Wednesday is in order and that the point of order does not lie.

Mr. [**Earl C.**] **Michener** [of Michigan]: Mr. Speaker, will the gentleman yield?

Mr. Marcantonio: I yield to the gentleman from Michigan.

Mr. Michener: Without reference to the current controversy, may I call the Speaker's attention to the fact that Calendar Wednesday is presumed to be the people's day; that is, all committees are called in order, and whether a bill comes up for consideration rests entirely within the control of the committee having the call, the majority leadership and the Rules Committee to the contrary notwithstanding.

Calendar Wednesday is usually dispensed with only by unanimous consent. There would be very little use for such a day if this were not the case. General legislation on other days is programed by the leadership; not so on Calendar Wednesday. It would, therefore, seem fundamental if the purposes of the rule are to be carried out, that the committees should be called in order. Were it otherwise, the majority which controls other programs could control proceedings on Calendar Wednesday.

It would seem fair to proceed with the call of committees, and that no motion to dispense with further proceedings under the Calendar Wednesday rule should be in order.

Mr. Marcantonio: Mr. Speaker, may I say further that the motion is not in order because the call of the calendar is mandatory. That motion cannot have preference over the call of the Calendar. The only motion that can be considered, as I understand, would be a motion to adjourn, upon which the House has just voted.

Mr. Whittington: Mr. Speaker, with your indulgence, I have no disposition to delay proceedings, but permit me to say it has been the general and practically universal practice with respect to dispensing with further proceedings under Calendar Wednesday, that that motion has frequently been made when one committee of this House has been called. I submit that to the recollection and to the judgment not only of the Speaker but to the Members of the House.

I respectfully maintain, Mr. Speaker, that the point of order does not lie.

Mr. [**John E.**] **Rankin** [of Mississippi]: Mr. Speaker, will the gentleman yield?

Mr. Whittington: If I have the floor.

Mr. Rankin: If you will go back and search the Record of Calendar Wednesday proceedings, you will find that time and time again when one committee has been called, then a motion has been made to dispense with further proceedings under Calendar Wednesday, and that motion carried.

Mr. Whittington: If further proceedings are dispensed with, then the House can proceed to transact other business for the remainder of the day, including the unfinished river and harbor bill that is pending.

The Speaker: The Chair will state that the following was held by Speaker Gillett, who has been quoted today, as follows:

> The Speaker is constrained to recognize on Wednesdays any Member proposing a motion to dispense with further proceedings in order on that day.

The motion is in order, but it takes a two-thirds vote to pass it.

Mr. [Herman P.] Eberharter [of Pennsylvania]: Mr. Speaker, does that motion require a two-thirds vote?

The Speaker: It does.

Mr. Whittington: I did not understand the Speaker's answer.

The Speaker: The answer was that to suspend the call of the calendar on Wednesday requires a two-thirds vote.

Mr. Whittington: Is a mere motion now to dispense with further proceedings the same as a motion to suspend the rules altogether? My motion is to simply suspend further proceedings under the call of Calendar Wednesday. I maintain there is a distinction between dispensing with the call altogether and dispensing with further proceedings under the call.

The Speaker: The Chair will read the rule so that there will be no misunderstanding:

> On Wednesday of each week no business shall be in order except as provided by paragraph 4 of this rule unless the House, by a two-thirds vote on motion to suspend therewith, shall otherwise determine.

The question is on the motion to dispense with further proceedings under Calendar Wednesday.

Mr. Marcantonio: Mr. Speaker, a parliamentary inquiry.

The Speaker: The gentleman will state it.

Mr. Marcantonio: Does that motion not have to be made at the very beginning of the day?

The Speaker: The Chair holds otherwise.

Parliamentarian's Note: The motion to dispense with Calendar Wednesday business and its privilege are discussed in section 4, supra, dealing with the Calendar Wednesday procedure. Calendar Wednesday business is customarily dispensed with not by motion but by unanimous consent.

Question of Consideration and Preventing Consideration

§ 30.16 The question of consideration may not be raised against a motion that the House resolve itself into the Committee of the Whole.

On May 21, 1958,(15) Mr. Wayne N. Aspinall, of Colorado, by direction of the Committee on Interior and Insular Affairs, offered the motion that the House resolve itself into the Committee of the Whole for the consideration of a privileged bill (H.R. 7999, to provide for the admission of the State of Alaska into the Union). The bill was called up as privileged under the provisions of then Rule XI clause 20, allowing that committee to report at any time on the admission of new states. Speaker Sam Rayburn, of Texas, ruled that the question of consideration could not be demanded against the motion to resolve into Committee of the Whole:

> The question is on the motion offered by the gentleman from Colorado that the House resolve itself into the Committee of the Whole.
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> Mr. [Howard W.] Smith of Virginia: Mr. Speaker, I raise the question of consideration and demand a vote on the question of consideration.
>
> The Speaker: The question of consideration, the Chair is informed, cannot be raised against the motion. That is decided on the motion itself. The Members will vote on whether or not they are going to consider this bill, if they ask for a rollcall. The question now is on the motion offered by the gentleman from Colorado.
>
> Mr. Smith of Virginia: May I submit a parliamentary inquiry, Mr. Speaker?
>
> The Speaker: The gentleman may.
>
> Mr. Smith of Virginia: Under what circumstances can the question of consideration be raised?
>
> The Speaker: The Chair tried to say a moment ago that it cannot be raised against the motion to go into the Committee of the Whole, because that is tantamount to consideration, and the House will have an opportunity to vote on that motion. . . .
>
> Mr. Smith of Virginia: In other words, if we demand a vote on that question, then that will be tantamount to raising the question of consideration?
>
> The Speaker: That is correct.
>
> The question is on the motion offered by a gentleman from Colorado.
>
> Mr. [Craig] Hosmer [of California]: Mr. Speaker, on that I demand the yeas and nays.
>
> The yeas and nays were ordered.
>
> The question was taken; and there were—yeas 217, nays 172, not voting 40, as follows: . . .

Parliamentarian's Note: The question of consideration, although a privileged demand before debate has begun on a proposition which has been called up for consideration, may not be raised against motions relating to the order of business, against a class of business, against reports from the Committee on Rules, against a vetoed bill, against a motion to discharge committees, or against taking from the Speaker's table Senate bills similar to reported House Calendar bills.(16)

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(15) 104 Cong. Rec. 9216, 9217, 85th Cong. 2d Sess.

Other preferential motions which may prevent the consideration of certain business and motions, such as the motion to table and the motion to postpone, are discussed in Ch. 23, infra.

§ 30.17 The question as to when the House will consider a bill unfinished on a previous day is always within the control of a majority of the House.

On Apr. 26, 1948,(17) Speaker Joseph W. Martin, Jr., of Massachusetts, answered a parliamentary inquiry as to when a bill, brought up in the House by a motion to discharge, could be considered if not finished on the day on which brought up. The Speaker heard Mr. Earl C. Michener, of Michigan, on the inquiry and then stated as follows:

THE SPEAKER: The Chair is interested in the valued comments of the distinguished gentleman from Michigan. Of course, the Chair is unaware of the intent or purpose back of the rule when it was first formulated. All he has to guide him is the rule itself as it appears before him in print. The Chair agrees with the gentleman from Michigan that the House can immediately consider the legislation after the motion to discharge the committee is agreed to, but the rule states "and if unfinished before adjournment of the day on which it is called up, it shall remain the unfinished business until it is fully disposed of."

That provision does not state definitely that the bill must come up on the following day, but that it shall remain the unfinished business. The gentleman's point that the bill could be postponed indefinitely of course is correct, in a sense, but after all the rules are based on common sense, and no one would anticipate that the side that procured enough signatures to a discharge petition to bring a bill before the House would filibuster their own bill.

While the rule perhaps is not quite as definite as it might be, it is the opinion of the Chair that the consideration of the bill could go over until Wednesday if the proponents of the bill do not call it up on tomorrow, and that it would be in order on Wednesday as the unfinished business.

The Chair believes that unless the gentleman from South Carolina [Mr.

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16. See *House Rules and Manual* §§ 778–781 (1979).

For consideration of reports from the Committee on Rules, and the two-thirds vote required for consideration on the same day reported, see § 18, supra.

17. 94 CONG. REC. 4877, 4878, 80th Cong. 2d Sess.

Rivers] or someone on his side of the issue, calls it up on tomorrow, it can be called up on Wednesday and will be the unfinished business on that day. The Chair also wishes to state that he will not recognize anyone on the affirmative side of this matter unless the gentleman from South Carolina is absent. It is not necessary to call it up on tomorrow and it can be called up on Wednesday, at which time it will be the unfinished business.

The Chair will also remind Members that it is always within the control of the majority of the House to determine what should be done.

§ 30.18 The question as to when the Committee of the Whole will resume the consideration of a bill unfinished when the Committee rises is for the Speaker and the House to determine, and not for the Chairman of the Committee of the Whole.

On Apr. 26, 1948,(18) Chairman Leslie C. Arends, of Illinois, answered a parliamentary inquiry as follows in the Committee of the Whole:

Mr. August H. Andresen [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

Mr. August H. Andresen: Mr. Chairman, I understand that the Committee will rise at 4 o'clock. It is also my understanding of the rules that this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.

I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.

The Chairman: The Chair may say that is a matter for the Speaker of the House and the House itself to determine. It is not something within the jurisdiction of the Chair to decide.

§ 30.19 Where the House had agreed that certain legislation take priority over all other business except conference reports, the Speaker held that the agreement gave a higher priority to that business than the consideration of a resolution disapproving a reorganization plan, but that the House could reach legislation of lesser privilege by rejecting the motion that the House resolve itself into the Committee of the Whole.

On May 9, 1950, Speaker pro tempore John W. McCormack, of Massachusetts, overruled a point of order against a motion that the House resolve itself into Committee of the Whole for the consideration of a general appropriation bill given precedence by a unanimous-consent agreement:(19)

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(18) 94 Cong. Rec. 4873, 4874, 80th Cong. 2d Sess.

(19) 96 Cong. Rec. 6720–24, 81st Cong. 2d Sess.

GENERAL APPROPRIATION BILL, 1951

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7786) making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I make the point of order that the House is not proceeding in the regular order because under section 205a of the Reorganization Act, which is Public Law 109 of the Eighty-first Congress, first session, any Member of the House is privileged, and this is a highly privileged motion, to make the motion that the House proceed to the consideration of House Resolution 516.

The gentleman from Michigan being on his feet to present this highly privileged motion, the regular order is that he be recognized for that purpose that the motion be entertained and the question put before the House, and my motion is that the House proceed to the consideration of House Resolution 516. . . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from Michigan makes a point of order, the substance of which is that the motion he desires to make or that someone else should make in relation to the consideration of a disapproving resolution of one of the reorganization plans takes precedence over the appropriation bill insofar as recognition by the Chair is concerned. The gentleman from Michigan raises a very serious question and the Chair feels at this particular time that it is well that he did so. . . .

. . . The Chair will state that the House always has a constitutional right and power to refuse to go into the Committee of the Whole on any motion made by any Member, so that the House is capable of carrying out its will, whatever may be the will of the majority of the House.

Continuing, the Chair will state that in the opinion of the present occupant, in view of the unanimous-consent request made by the gentleman from Missouri and granted by the House, if any member of the Appropriations Committee moves that the House resolve itself into the Committee of the Whole on the State of the Union to consider the appropriation bill, that motion has preference over any other preferential motion. It is a matter that the House decides when the motion is made as to what it wants to do and it has an opportunity when that motion is made to carry out its will.

§ 31. Relative Precedence Among Privileged Matters

Following the precedents in this section there appears a table summarizing decisions of the Chair with respect to the relative precedence among privileged questions. The information given in the table is intended merely as a guide, since the principles of relative precedence stated herein are subject to the right of the House to change its order of business at any time. The priority of matters of equal or near-equal privilege may be determined by the Chair within his power of recognition. And the decisions cited should be consulted to determine whether they reflect the current practices of the House and whether they are precisely applicable to the parliamentary situation in question.(20)

Chair's Power of Recognition (Matters of Equal Privilege)

§ 31.1 In response to a parliamentary inquiry, the Speaker stated that where matters of equal privilege are pending, the order of their consideration is subject to the Speaker's recognition.

On Sept. 22, 1966,(1) Speaker John W. McCormack, of Massachusetts, made the following statement on recognition, in response to a parliamentary inquiry related to the order of business:

> THE SPEAKER: . . . Of course, the question of recognition is with the Chair, where there are two similar preferential matters, but the gentleman's understanding is correct that after 7 legislative days a member of the Rules Committee could call it up.
>
> If it were a question of recognition, if the same preferential status existed at the same time, recognition rests with the Chair.

§ 31.2 If a resolution providing a special order of business and reported by the Committee on Rules is not called up for consideration by the Member reporting the resolution within seven days, any member of that committee may call it up for consideration as a privileged matter, for which purpose the Speaker would be obliged to recognize such member, unless a matter of equal or higher privilege was pending, in which case the order of consideration would be determined by the Speaker's recognition.

On Sept. 22, 1966,(2) Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry as to the order of business:

> MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

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(20) See also, for the relative precedence of privileged questions, Cannon's Procedure in the House of Representatives 252, H. Doc. No. 86-122 (1959); *House Rules and Manual* § 880 [note] (1979).

(1) 112 CONG. REC. 23691, 89th Cong. 2d Sess.

(2) 112 CONG. REC. 23691, 89th Cong. 2d Sess.

Under the rules of the House, as I understand them, this rule, House Resolution 1007, to bring up the so-called House Un-American Activities Committee bill, is a privileged matter, and if it is not programed, then the gentleman handling the rule or any member of the Rules Committee, may call it up as a privileged matter. Is my understanding correct about that?

THE SPEAKER: The gentleman's understanding is correct. Of course, the question of recognition is with the Chair, where there are two similar preferential matters, but the gentleman's understanding is correct that after 7 legislative days a member of the Rules Committee could call it up.

If it were a question of recognition, if the same preferential status existed at the same time, recognition rests with the Chair.

MR. COLMER: I thank the Speaker for his ruling.

Mr. Speaker, in view of that, if the gentleman will continue to yield to me, I should like to serve notice now on the majority leadership that if this resolution is not programed at a reasonably early date, I shall exercise that privilege as the one who is designated to handle this rule.

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, I should like to announce further that the program for next week will be announced later in the day.

§ 31.3 While the call of the Consent Calendar is, under Rule XIII clause 4, mandatory on the first and third Mondays of the month immediately after the approval of the Journal, the Speaker may recognize a Member to call up a conference report under Rule XXVIII clause 1, before directing the Clerk to call the Consent Calendar.

On May 4, 1970,[3] which was Consent Calendar Day under Rule XIII clause 4, requiring that the Consent Calendar be called immediately after the approval of the Journal, Speaker John W. McCormack, of Massachusetts, recognized Mr. Carl D. Perkins, of Kentucky, to call up a conference report on H.R. 515 (to amend the National School Lunch Act and Child Nutrition Act), as a privileged matter under Rule XXVIII clause 1, before directing the call of the Consent Calendar.

§ 31.4 On a District Day, the Speaker recognized a member of the Committee on Rules to call up a privileged resolution relating to the order of business, and later recognized the chairman of another committee to call up the business made in order thereby, prior to recognizing the Chairman of the Committee on the District of Columbia to call up District business under Rule XXIV clause 8.

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[3] 116 CONG. REC. 14021-33, 91st Cong. 2d Sess.

On Sept. 24, 1962,[4] which was District of Columbia Day under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, first recognized Mr. William M. Colmer, of Mississippi, to call up by direction of the Committee on Rules House Resolution 804, making in order and providing for the consideration of Senate Joint Resolution 224, authorizing the President to call up armed forces reservists. The House having agreed to the resolution, the Speaker recognized Carl Vinson, of Georgia, Chairman of the Committee on Armed Services and manager of the joint resolution, to move that the House resolve itself into the Committee of the Whole for the consideration of the joint resolution, which was, after debate, agreed to by the House.

The Speaker then stated that it was District of Columbia Day and recognized Chairman John L. McMillan, of South Carolina, of the Committee on the District of Columbia for District business.[5]

§ 31.5 When a Member seeks recognition to call up District of Columbia business on the fourth Monday (privileged under Rule XXIV clause 8) and another Member seeks recognition to move to suspend the rules and agree to a Senate joint resolution amending the Constitution (privileged pursuant to a unanimous-consent agreement making it in order on the fourth Monday for the Speaker to recognize Members to move suspension and passage of bills), it is within the discretion of the Speaker as to which of the two Members he shall recognize.

On Aug. 27, 1962,[6] which was the fourth Monday of the month and therefore a day eligible for District of Columbia business, under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, recognized Mr. Emanuel Celler, of New York, to move to suspend the rules and pass a joint resolution (to amend the Constitution to prohibit the use of a poll tax as a qualification for voting) pursuant to a previous unanimous-consent request making in order on that day motions to suspend the rules. The Speaker overruled a point of order against prior recognition for the motion to suspend the rules:

> MR. CELLER: Mr. Speaker, I move to suspend the rules and pass Senate

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[4] 108 CONG. REC. 20489–94, 87th Cong. 2d Sess.

[5] *Id.* at p. 20521.

[6] 108 CONG. REC. 17654–70, 87th Cong. 2d Sess.

Joint Resolution 29, proposing an amendment to the Constitution of the United States relating to qualifications of electors.

Mr. [Thomas G.] Abernethy [of Mississippi]: Mr. Speaker, a point of order.

The Speaker: The gentleman will state his point of order.

Mr. Abernethy: Mr. Speaker, I make the point of order that this is District Day, that there are District bills on the calendar, and as a member of the Committee on the District of Columbia I respectfully demand recognition so that these bills may be considered.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, may I be heard on the point of order?

The Speaker: The Chair is prepared to rule, but the gentleman may be heard.

Mr. Albert: Mr. Speaker, by unanimous consent, suspensions were transferred to this day, and under the rules the Speaker has power of recognition at his own discretion.

Mr. Abernethy: Mr. Speaker, I respectfully call the attention of the chairman to clause 8, rule XXIV, page 432 of the House Manual. . . .

Mr. Speaker, I submit that rule is clear that when the time is claimed and the opportunity is claimed the Chair shall permit those bills to be considered.

Therefore, Mr. Speaker, I respectfully submit my point of order is well taken, and that I should be permitted to call up bills which are now pending on the calendar from the Committee on the District of Columbia.

Mr. [Howard W.] Smith of Virginia: Mr. Speaker. I should like to be heard on the point of order.

The Speaker: The Chair will hear the gentleman.

Mr. Smith of Virginia: Mr. Speaker, the rules of the House on some things are very clear, and the rules of the House either mean something or they do not mean anything.

Mr. Speaker, the gentleman from Mississippi [Mr. Abernethy], has just called to the Chair's attention clause 8 of rule XXIV. Nothing could be clearer; nothing could be more mandatory. I want to repeat it because I hope the Chair will not fall into an error on this proposition:

> The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only—

And that is all; that is all that you can consider—disposition of motions to discharge committees—

> and after the disposal of such business on the Speaker's table as requires reference only—

That is all that the Chair is permitted to consider.

Mr. Speaker, after that is done the day—

> shall when claimed by the Committee on the District of Columbia, be set apart for the consideration of such business as may be presented by said committee.

Mr. Speaker, I know that the majority leader bases his defense upon the theory that the House having given unanimous consent to hear suspensions on this Monday instead of last Monday when they should have been heard—and I doubt if very many Members were here when that consent order was made and I am quite sure that a great number of them had no notice that it was going to be made, and certainly I did not—now the majority leader undertakes to say that having gotten unanimous consent to consider this motion on this day to suspend the rules, therefore, it gives the Speaker carte blanche authority to do away with the rule which gives first consideration to District of Columbia matters.

Mr. Speaker, there was no waiver of the rule on the District of Columbia. That consent did not dispose or dispense with the business on the District of Columbia day. The rule is completely mandatory. The rule says that on the second and fourth Mondays, if the District of Columbia claims the time, that the Speaker shall recognize them for such dispositions as they desire to call.

The Speaker: The Chair is prepared to rule.

Several days ago on August 14 unanimous consent was obtained to transfer the consideration of business under suspension of the rules on Monday last until today. That does not prohibit the consideration of a privileged motion and a motion to suspend the rules today is a privileged motion. The matter is within the discretion of the Chair as to the matter of recognition.

§ 31.6 The consideration of appropriation bills on District of Columbia Monday is of equal privilege with bills called up by the Committee on the District of Columbia; thus it is within the discretion of the Chair as to which business he will recognize for first.

Jan. 25, 1932, was a Monday and a day eligible for District of Columbia business. Also scheduled for consideration was the Department of Agriculture appropriation bill. Under his power of recognition, Speaker John N. Garner, of Texas, first recognized Mrs. Mary T. Norton, of New Jersey, to call up a bill by direction of the Committee on the District of Columbia. Following the rejection of the previous question thereon, the Speaker recognized Mr. James P. Buchanan, of Texas, to move that the House resolve itself into the Committee of the Whole for the consideration of the appropriation bill.(7)

House May Determine Order of Business

§ 31.7 The regular order of business, such as the relative precedence of a motion to discharge on discharge days over unfinished business, may be varied by unanimous consent.

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7. 75 Cong. Rec. 2656–60, 72d Cong. 1st Sess.

On May 8, 1936,(8) Speaker Joseph W. Byrns, of Tennessee, answered a parliamentary inquiry as to the order of business and the power of the House to change such order by unanimous consent:

Mr. [William B.] Bankhead [of Alabama]: Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

Mr. [Gerald J.] Boileau [of Wisconsin]: Mr. Speaker, reserving the right to object, and I shall not object, will the Speaker make the situation clear with reference to the legislative program for Monday?

As I understand it, it will be in order before we complete this bill to take up the question of the discharge of the Rules Committee from further consideration of the Frazier-Lemke bill. I would like to ask the Speaker if my understanding is correct, if consideration of the discharge petition would come up before the vote on this bill?

The Speaker: The Chair thinks it would unless there is a previous understanding. The matter of which shall take precedence can be fixed by consent.

Mr. Boileau: I appreciate that, Mr. Speaker. Many Members interested in the Frazier-Lemke bill are anxious to know just what the situation is going to be.

Mr. [Bertrand H.] Snell [of New York]: It would seem to me, if the Speaker will permit, that the vote on the pending bill would be the unfinished business before the House on Monday.

The Speaker: The Chair will state to the gentleman from Wisconsin that, by consent, an agreement can be made whereby the vote on the motion to recommit the pending bill, or a roll call on its passage, can be had first, and then to take up the motion to discharge the committee.

Parliamentarian's Note: The House may refuse to consider privileged business brought up (except reports from the Committee on Rules not called up on the same day reported), and thereby reach business or legislation of lesser precedence.(9)

§ 31.8 Where two propositions of equal privilege are pending, it is for the Chair to determine whom he will recognize to call up one of the propositions, but the House may by unanimous consent determine such precedence.

On Sept. 11, 1945,(10) Speaker Sam Rayburn, of Texas, entertained a unanimous-consent request relating to the order of business and responded to a parliamentary inquiry as to its effect:

The Speaker: The Chair recognizes the gentleman from North Carolina.

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8. 80 Cong. Rec. 7010, 74th Cong. 2d Sess.

9. See §§ 30.16–30.19, supra, for the question of consideration and preventing consideration.

10. 91 Cong. Rec. 8510, 8511, 79th Cong. 1st Sess.

Mr. [Alfred L.] Bulwinkle [of North Carolina]: Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow, immediately after the meeting of the House for business, to consider the bill (H.R. 3974) to repeal war time; that general debate be limited to 1 hour, to be equally divided and controlled by the gentleman from Oklahoma [Mr. Boren], chairman of the subcommittee, and the gentleman from Massachusetts [Mr. Holmes].

Mr. [Joseph W.] Martin [Jr.] of Massachusetts: Mr. Speaker, reserving the right to object, and I shall not because I want to congratulate the committee on bringing in the legislation at this early date, as I understand it, that will be the first order of business tomorrow?

Mr. Bulwinkle: Yes; that is my understanding.

Mr. [Robert F.] Rich [of Pennsylvania]: Mr. Speaker, reserving the right to object, I was under the impression that H.R. 3660 was to be the next order of business.

The Speaker: That is a question for the Chair, as to whether the Chair will recognize the gentleman from Illinois to call up the rule or recognize the gentleman from Oklahoma to call up the bill repealing war time. The request being made at this time is for the war time repeal bill to take precedence.

RELATIVE PRECEDENCE OF PRIVILEGED QUESTIONS

(References are to sections in this chapter or in volumes I–VIII of Hinds' and Cannon's Precedents)

Item of business	*Takes precedence over*
Appropriation bill	**District of Columbia business (VI, §§ 716–718; VII, §§ 876, 1123) (also held equal with, § 29.10, supra).**
	Private Calendar business (IV §§ 3082–3085).
Approval of Journal	**Business on Speaker's table (§ 2.17, supra).**
	Conference report (V, § 6443).
	Executive communications (§ 2.17, supra).
	Motion to dispense with Calendar Wednesday (§ 4.42, supra).
	Question of personal privilege (§ 2.13, supra; VI, § 637).
	Rules Committee report (§ 2.12, supra).
	Veto message postponed to day certain (§ 3.36, supra).
Calendar Wednesday business	**Appropriation bill (VII, § 904).**
	Bill privileged under rules (VIII, § 2289).
	Conference report (VII, §§ 899–901).
	Motion to discharge resolution of inquiry (VII, §§ 896, 897).
	Motion to rerefer (VII, §§ 883, 884, 2117, 2118).
	Privileged report from Committee on House Administration (§ 4.3, supra).
	Resolution of inquiry (VII, § 898).
	Rules Committee report (§ 4.7, supra).
	Senate bill similar to reported House Calendar bill (VII, § 906).
	Special order, business under (VII §§ 773, 789).
	Unfinished business from previous day with previous question ordered (VII, §§ 890–894).
Calendar Wednesday, motion to dispense with.	**District of Columbia business (§ 4.33, supra).**

Item of business	*Takes precedence over*
Conference report	Appropriation bill (VIII, § 3291).
	Consent Calendar business (§ 29.25, supra).
	District of Columbia business (VIII, § 3292).
	Operation of previous question (§ 29.26, supra).
	Private Calendar business (§ 29.27, supra).
	Rules Committee report (V, § 6449).
	Special order, business under (V, §§ 6454, 6455; VII § 789).
	Senate amendment in disagreement (V, § 6523).
Consent Calendar business	Appropriation bill (VII, §§ 986, 987).
	Contested election case (VII, §§ 988, 989).
	Unfinished business from previous day with previous question ordered (VII, § 990).
Contested election case (if brought up as question of constitutional privilege, which is not the present practice).	Calendar Wednesday business (VIII, § 2276).
	Question of privileges of House (VI, § 572).
	Rules Committee report (III, § 2554).
	Suspension of rules (V, § 6825).
	Veto message (V, §§ 6641, 6642).
Election of House committee	Appropriation or revenue bill (VI, § 3).
Election of Speaker	Oath of Members (I, §§ 212, 214).
Impeachment	Approval of Journal (VI, § 469).
	Conference report (§ 28.11, supra).
	Contested election case (III, § 2581).
Message from President	Unfinished business (§§ 3.6, 3.7, supra).
	Question of privilege, message may be received pending (V, §§ 6640–6642).
Message from Senate	Operation of previous question (§ 2.24, supra).
Motion to discharge committee	Appropriation bill (VII, §§ 1016, 1017).
	Special order, business under (§ 30.11, supra).
	Suspension of rules (VII, § 1018).
	Unfinished business (§ 3.8, supra).
	Unfinished business from previous day with previous question ordered (§ 3.23, supra).

Item of business	*Takes precedence over*
Motion to rerefer after reading of Journal.	Appropriation bill (VII, § 2124).
	Conference report (VII, § 2124).
	Private Calendar business (VII, § 2128).
Oath of Members (question of privileges of House).	Approval of Journal (I, § 172).
	Calendar Wednesday business (VI, § 22).
	Operation of previous question (§ 28.20, supra).
	Point of order of no quorum (VI, § 21).
	Rules Committee report (§ 28.21, supra).
	Suspension of rules (V, § 6826).
Question of personal privilege	Bill privileged under rules (VI, § 557).
	Bill privileged under special order (III, § 2524; VI, § 555).
	Calendar Wednesday business (VII, §§ 908–911; VI, § 613).
	Consent Calendar business (VI, § 553).
	Motion to discharge committee (VI, § 553).
	Operation of previous question (VI, § 561; VIII, § 2688).
	Rules Committee report (III, § 2530).
	Senate amendment in disagreement (III, § 2531).
	Suspension of rules (VI, 553).
Question of privileges of House	Appropriation bill (VIII, § 3461).
	Approval of Journal (II, § 1630; VI, § 637).
	Bill privileged under special order (VI, §§ 560, 395).
	Calendar Wednesday business (VII, § 911; VI, § 394; §§ 4.4, 4.5, supra).
	Conference report (VI, §§ 559, 403).
	Consent Calendar business (VI, § 553).
	Disposition of message from President (V, § 6640).
	District of Columbia business (§ 5.3, supra).
	Motion to discharge committee (VI, § 553).
	Operation of previous question (III, § 2532).
	Rules Committee report (III, § 2530; VIII, § 3491).
	Suspension of rules (VI, § 553).
Resolution of inquiry	Consent Calendar business (VI, § 409).

Item of business	*Takes precedence over*
Rules Committee report	**Consent Calendar business (§ 17.12, supra).**
	District of Columbia business (§ 5.4, supra).
	Motion to discharge resolution of inquiry (§ 17.7, supra).
Suspension of rules	**Contested election case (VII, § 988).**
	District of Columbia business (held equal with, § 5.1, supra).
	Unfinished business from previous day with previous question ordered (V, §§ 6827, 6831–6833).
Unfinished business from previous day with previous question ordered.	**Special order, business under (V, § 5520; VIII, § 2674).**
	Veto message (disposition of, VIII, § 2693).
Veto message	**Calendar Wednesday business (§ 4.6, supra; VII, § 912).**
	Special order (§ 3.5, supra).

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